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Briefing on How To Use the Federal Register
For information on briefing in New York, NY, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

NEW YORK, NY

WHEN: November 23, 9:00 am—12:00 pm

WHERE: National Archives—Northeast Region, 201 Varick Street, 12th Floor, New York, NY

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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free Electronic Bulletin Board service for Public Law numbers and Federal Register finding aids is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 93-130-1]

Oriental Fruit Fly; Designation of Quarantined Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Oriental fruit fly regulations by quarantining a portion of Los Angeles County, CA, and restricting the interstate movement of regulated articles from the quarantined area. This action is necessary on an emergency basis to prevent the spread of the Oriental fruit fly into noninfested areas of the United States.

DATES: Interim rule effective October 22, 1993. Consideration will be given only to comments received on or before December 27, 1993.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 93-130-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are encouraged to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, Domestic and Emergency Operations, Plant Protection and Quarantine, APHIS, USDA, room 640, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8247.

SUPPLEMENTARY INFORMATION:

Background

The Oriental fruit fly, *Bactrocera dorsalis* (Hendel), is a destructive pest of numerous fruits (especially citrus fruits), nuts, vegetables, and berries. The Oriental fruit fly can cause serious economic losses. Heavy infestations can cause complete loss of crops. The short life cycle of this pest permits the rapid development of serious outbreaks.

The Oriental fruit fly regulations (contained in 7 CFR 301.93 through 301.93-10 and referred to below as the regulations) were established to prevent the spread of the Oriental fruit fly into noninfested areas of the United States. Section 301.93-3(a) provides that the Administrator will list as a quarantined area each State, or each portion of a State, in which the Oriental fruit fly has been found by an inspector, in which the Administrator has reason to believe that the Oriental fruit fly is present, or that the Administrator considers necessary to regulate because of its proximity to the Oriental fruit fly or its inseparability for quarantine enforcement purposes from localities in which the Oriental fruit fly has been found. The regulations impose restrictions on the interstate movement of regulated articles from the quarantined areas.

Recent trapping surveys by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (USDA), reveal that a portion of Los Angeles County, CA, is infested with the Oriental fruit fly. Specifically, inspectors collected 13 adult Oriental fruit flies in traps in Los Angeles County, CA, between August 26, and September 1, 1993. The Oriental fruit fly is not known to occur anywhere else in the continental United States.

Officials of State agencies of California have begun an intensive Oriental fruit fly eradication program in the quarantined area in California. Also, California has taken action to restrict the intrastate movement of certain articles from the quarantined area.

Accordingly, to prevent the spread of the Oriental fruit fly to other States, we are amending the regulations in § 301.93-3 by designating as a quarantined area a portion of Los Angeles County, CA. The quarantined area, composed of about 81 square miles in the Sherman Oaks area, is described below:

Los Angeles County

That portion of Los Angeles County bounded by a line drawn as follows: Beginning at the intersection of Roscoe and Lankershim Boulevards; then south southeast along Lankershim Boulevard to its intersection with State Highway 101; then southwest along an imaginary line to the intersection of Laurel Canyon Boulevard and Mulholland Drive; then southwest along an imaginary line to the intersection of Benedict Canyon and Clearview Drives; then northwest along an imaginary line to the intersection of Interstate Highway 405 and Bel Air Crest Road; then northwest along an imaginary line to the intersection of Whiteoak Avenue and Ventura Boulevard; then north along Whiteoak Avenue to its intersection with Vanowen Street; then east along Vanowen Street to its intersection with Woodley Avenue; then north along Woodley Avenue to its intersection with Roscoe Boulevard; then east along Roscoe Boulevard to the point of beginning.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the Oriental fruit fly from spreading to noninfested areas of the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

This interim rule restricts the interstate movement of regulated articles from a portion of Los Angeles County, CA. Approximately 250 entities will be affected by this rule. All would be considered small entities. They include 199 fruit sellers, 27 mobile vendors, 22 nurseries, and 2 fruit growers. These small entities comprise less than 1 percent of the total number of similar small entities operating in the State of California. In addition, these small entities sell regulated articles primarily for local intrastate, not interstate, movement so the effect, if any, of this regulation on these entities appears to be minimal.

The effect on those few entities that do move regulated articles interstate will be minimized by the availability of various treatments, that, in most cases, will allow these small entities to move regulated articles interstate with very little additional cost.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for the Oriental fruit fly regulatory program. The assessment provides a basis for the conclusion that the methods employed to regulate the Oriental fruit fly will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

This document contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, 7 CFR part 301 is amended as follows:

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 301.93–3, paragraph (c) is revised to read as follows:

§ 301.93–3 Quarantined areas.

* * * * *

(c) The area described below is designated as a quarantined area:

California

Los Angeles County. That portion of Los Angeles County bounded by a line drawn as follows: Beginning at the intersection of Roscoe and Lankershim Boulevards; then south southeast along Lankershim Boulevard to its intersection with State Highway 101; then southwest along an imaginary line to the intersection of Laurel Canyon Boulevard and Mulholland Drive; then southwest along an imaginary line to the intersection of Benedict Canyon and Clearview Drives; then northwest along an imaginary line to the intersection of Interstate Highway 405 and Bel Air Crest Road; then northwest along an imaginary line to the intersection of Whiteoak Avenue and Ventura Boulevard; then north along Whiteoak Avenue to its intersection with Vanowen Street; then east along Vanowen Street to its intersection with Woodley Avenue; then north along Woodley Avenue to its intersection with Roscoe Boulevard; then east along Roscoe Boulevard to the point of beginning.

Done in Washington, DC, this 22d day of October 1993.

Patricia Jensen,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–26521 Filed 10–27–93; 8:45 am]

BILLING CODE 3410–34–P

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7 CFR Part 301

[Docket No. 93–082–1]

Imported Fire Ant

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Direct final rule.

SUMMARY: We are amending the appendix to the imported fire ant regulations to allow reduced dosage rates of granular bifenthrin for the treatment of containerized nursery stock that is to be certified for interstate movement from quarantined areas for limited periods of time. This action will reduce the amount of insecticide used to treat containerized nursery stock while relieving an economic burden on persons moving containerized nursery

stock interstate from imported fire ant-quarantined areas.

DATES: This rule will be effective on December 27, 1993 unless we receive written adverse comments or written notice of intent to submit adverse comments on or before November 29, 1993.

ADDRESSES: Please send an original and three copies of any adverse comments or notice of intent to submit adverse comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your submission refers to Docket No. 93–082–1. Submissions received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments and notices are encouraged to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Brittingham, Operations Officer, Domestic and Emergency Operations, Plant Protection and Quarantine, APHIS, USDA, room 640, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8247.

SUPPLEMENTARY INFORMATION:

Background

Imported fire ants, *Solenopsis invicta* Buren and *Solenopsis richteri* Forel, are aggressive, stinging insects that, in large numbers, can seriously injure or even kill livestock, pets, and humans. These pests feed on crops and their large, hard mounds damage farm and field machinery.

The restrictions in "Subpart—Imported Fire Ant" (7 CFR part 301, referred to below as "the regulations") prevent the spread of the imported fire ant (IFA) on articles moving interstate by quarantining IFA-infested States or IFA-infested areas within States and imposing restrictions on the interstate movement of certain articles, known as regulated articles, from these quarantined States or areas.

Sections 301.81–4 and 301.81–5 provide, among other things, that regulated articles requiring treatment before interstate movement must be treated in accordance with the methods and procedures prescribed in the Appendix to Subpart "Imported Fire Ant"—Portion of "Imported Fire Ant Program Manual" (referred to below as "the Appendix"). The Appendix sets forth the treatment provisions of the "Imported Fire Ant Program Manual."

Currently, the Appendix requires that granular bifenthrin be added to soil or potting media at only one rate, 25 parts per million (ppm), applied in accordance with the granular bifenthrin label.

Research recently conducted by the Animal and Plant Health Inspection Service Imported Fire Ant Methods Development Station in Gulfport, MS, has shown that the dosage rate of granular bifenthrin can be reduced from 25 ppm for the treatment of soil or potting media for limited periods without affecting the efficacy of the treatment for those periods. A dosage rate of 10 ppm is efficacious for 6 months; a dosage rate of 12 ppm, for 12 months; and a dosage rate of 15 ppm, for 24 months. Therefore, we have determined that containerized nursery stock may be certified for interstate movement after treatment with these reduced dosages of granular bifenthrin for limited periods, based on the efficacy data provided in this paragraph.

In July, 1993, as a result of these findings, the United States Environmental Protection Agency (EPA) approved a new label for granular bifenthrin, providing for reduced-dosage applications. This direct final rule contains changes to the "Imported Fire Ant Program Manual" reflecting these reduced dosage rates and certification periods, including the method of application. This rule also contains changes to the Appendix reflecting these reduced dosage rates and certification periods, in paragraph III.C.3.b. and in paragraph III.C.4., under "Exclusion"; and adding "Method D—Granular Incorporation" to paragraph III.C.3.c.

The dosage rate of 25 ppm will continue to be required for certification of containerized nursery stock for interstate movement from quarantined areas for more than 24 months.

Effective Date

We are publishing this rule without a prior proposal because we view this action as noncontroversial and anticipate no adverse public comment. This rule will be effective, as published in this document, 60 days after the date of publication in the **Federal Register** unless we receive written adverse comments or written notice of intent to submit adverse comments within 30 days of the date of publication of this rule in the **Federal Register.**

Adverse comments are comments that suggest the rule should not be adopted or that suggest the rule should be changed.

If we receive written adverse comments or written notice of intent to submit adverse comments, we will publish a notice in the **Federal Register** withdrawing this rule before the effective date. We will then publish a proposed rule for public comment. Following the close of that comment period, the comments will be considered, and a final rule addressing the comments will be published.

As discussed above, if we receive no written adverse comments nor written notice of intent to submit adverse comments within 30 days of publication of this direct final rule, this direct final rule will become effective 60 days following its publication. We will publish a notice to this effect in the **Federal Register**, before the effective date of this direct final rule, confirming that it is effective on the date indicated in this document. Executive Order 12291 and Regulatory Flexibility Act.

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The adoption of a four-tiered granular bifenthrin dosage rate for certification of containerized nursery stock for interstate movement from quarantined areas will reduce the amount of insecticide used in those areas, reduce treatment costs, and reduce the likelihood of environmental damage.

Approximately 2,645 nurseries move containerized nursery stock interstate from quarantined areas each year. Twelve of these nurseries are large; 2,633 are small, with sales below $500,000.

Granular bifenthrin currently retails for about $38.50 per 50-pound bag. During fiscal year 1992 nurseries spent an estimated $44.9 million to treat 5.8 million cubic yards of potting media with bifenthrin. Treatment with reduced amounts of granular bifenthrin will reduce nursery expenditures on bifenthrin by an estimated $19.7 million. About 60 percent of the estimated savings will be incurred by large nurseries. Small nurseries will save an estimated total of approximately $7.9 million. This will mean a modest

annual saving of approximately $3,001 per small entity.

We do not anticipate a noticeable impact on small entities that distribute agricultural chemicals. Distributors of agricultural chemicals are diversified businesses that sell a wide variety of chemicals, fertilizers, and other farm and nursery supplies.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule will not have a significant economic impact on a substantial number of small entities. Executive Order 12372.

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this rule. The assessment prepared in July 1993 provides a basis for our conclusion that the reduced dosage rates of granular bifenthrin described in the "Imported Fire Ant Program Manual" will not present a risk of disseminating plant pests and will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In part 301, Subpart—Imported Fire Ant, Appendix to the subpart, paragraph III.C.3., paragraph b. is revised to read as set forth below, and paragraph c. is amended by adding a new "Method D—Granular Incorporation" at the end of paragraph III.C.3., to read as set forth below:

Subpart—Imported Fire Ant

* * * * *

Appendix to Subpart "Imported Fire Ant"—Portion of "Imported Fire Ant Program Manual" [8]

III. Regulatory Procedures

* * * * *

C. *Approved Treatments.*

* * * * *

3. Plants—Balled or in Containers

* * * * *

b. Bifenthrin.

(i) Bifenthrin: Drench and Topical Applications.

Material: Bifenthrin—drench of containerized nursery stock or topical application to 3- or 4-quart containerized nursery stock followed by irrigation with water.

Dosage: Dosage rate is 25 ppm. The amount of formulation needed to achieve 25 ppm varies with the bulk density of the soil or potting media. Follow label directions to calculate the amount of formulation needed to achieve 25 ppm.

Exposure period: Containerized nursery stock can be certified immediately upon completion of the treatment.

Certification period: 180 days.

(ii) Bifenthrin: Granular Formulation

Material: Granular bifenthrin—incorporation into soil or potting media for containerized nursery stock.

Dosage: The amount of granular bifenthrin needed to achieve a specified dosage varies with the bulk density of the soil or potting media. Follow label directions to calculate the amount needed to achieve a specified dosage.

Granular Bifenthrin Dosage (parts per million)	Certification Period (months after treatment)
10 ppm	0–6 months.
12 ppm	0–12 months.
15 ppm	0–24 months.
25 ppm	Continuous.

Exposure Period: Containerized nursery stock can be certified immediately upon completion of the treatment.

* * * * *

Method D—Granular Incorporation (Bifenthrin)

Apply bifenthrin according to the label instructions for granular incorporation. Mix thoroughly to distribute product evenly throughout the soil or potting media. After potting, containers must be watered to the point of saturation.

Precautions: Saturation of the soil or potting media with the granular bifenthrin is essential. Water that drains from the treatment area, which may contain bifenthrin, must be disposed of in accordance with State and local laws.

* * * * *

3. In part 301, Subpart—Imported Fire Ant, Appendix to the subpart, in paragraph III.C.4., under the "Exclusion" heading, a subheading "*Bifenthrin*" is added (flush left) and the first paragraph is amended by removing the term "25 ppm for the granular formulations" and adding the term "variable, determined by the selected certification period, for the granular bifenthrin;" in its place.

[8] A copy of the entire "Imported Fire Ant Program Manual" may be obtained from the Administrator, c/o Domestic and Emergency Operations, PPQ, APHIS, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

Done in Washington, DC, this 22nd day of October 1993.

Patricia Jensen,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–26571 Filed 10–27–93; 8:45 am]

BILLING CODE 3410–34–P

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7 CFR Part 318

[Docket No. 92–081–2]

Sharwil Avocados From Hawaii

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the "Subpart—Hawaiian Fruits and Vegetables" quarantine and regulations by removing the provision that allowed the interstate movement of untreated Sharwil avocados meeting certain harvest and handling conditions. The interim rule affected persons engaged in growing Sharwil avocados for movement to the continental United States, and persons engaged in moving such avocados.

EFFECTIVE DATE: November 29, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Victor Harabin, Operations Officer, Port Operations, Plant Protection and Quarantine, APHIS, USDA, room 632, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8799.

SUPPLEMENTARY INFORMATION: The Hawaiian Fruits and Vegetables Regulations (contained in 7 CFR 318.13 through 318.13–16 and referred to below as the regulations) govern, among other things, the interstate movement from Hawaii of avocados in a raw or unprocessed state. Regulation is necessary to prevent spread of the Mediterranean fruit fly (*Ceratitis capitata* (Wied.)), the melon fly (*Dacus cucurbitae* (Coq.)), and the Oriental fruit fly (*Bactrocera dorsalis* (Hendel) (Syn. *Dacus dorsalis).*

In an interim rule effective and published in the **Federal Register** on July 15, 1992 (57 FR 31306–31307, Docket No. 92–081–1), we amended the regulations to remove provisions in § 318.13–4(c) and § 318.13–4h that allowed Sharwil avocados to be moved from Hawaii to other parts of the United States if the Sharwil avocados were harvested and handled in accordance with requirements specified in the regulations. This action followed the discovery of fruit fly larvae in an unblemished avocado picked by an APHIS inspector from a tree in an orchard that shipped Sharwil avocados to the mainland United States. This discovery called into question the reliability of the regulatory requirements for certifying Sharwil avocados.

Comments on the interim rule were required to be received on or before September 14, 1992. We received one comment, which did not oppose the rule but urged the United States Department of Agriculture to continue research to refine procedures for harvesting and marketing fruit from Hawaii in a manner that will not result in introduction of fruit flies. The facts presented in the interim rule still provide a basis for the rule.

This action also affirms the information contained in the interim rule concerning the Regulatory Flexibility Act, Executive Orders 12372 and 12778, and the Paperwork Reduction Act.

List of Subjects in 7 CFR Part 318

Avocados, Cotton, Cottonseeds, Fruits, Guam, Hawaii, Plant diseases and pests, Puerto Rico, Quarantine, Transportation, Vegetables, Virgin Islands.

PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule amending 7 CFR 318.13 that was published at 57 FR 31306–31307 on July 15, 1992.

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, 164a, 167; 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 22nd day of October 1993.

Patricia Jensen,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–26570 Filed 10–27–93; 8:45 am]

BILLING CODE 3410–34–P

Agricultural Marketing Service

7 CFR Parts 907 and 908

[Docket No. FV93–907–31FR]

Navel and Valencia Oranges Grown in Arizona and Designated Parts of California; Expenses and Assessment Rates for the 1993–94 Fiscal Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes expenses and establishes an assessment rate for the Navel Orange Administrative Committee (NOAC) and the Valencia Orange Administrative Committee (VOAC) under Marketing Order Nos. 907 and 908, respectively, for the 1993–94 fiscal year. Authorization of this budget enables the NOAC and VOAC to incur expenses that are reasonable and necessary to administer their respective programs. Funds to administer these programs are derived from assessments on handlers.

DATES: Effective beginning November 1, 1993, through October 31, 1994. Comments received by November 29, 1993 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim final rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456. Fax # (202) 720–5698. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Britthany Beadle, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2522–S, Washington, D.C. 20090–6456; telephone: (202) 720–5127; or Maureen Pello, California Marketing Field Office, F&V, AMS, USDA, 2202 Monterey Street, suite 102 B, Fresno, California 93721; telephone: (209) 487–5901.

SUPPLEMENTARY INFORMATION: This interim final rule is effective under Marketing Order Nos. 907 and 908 (7 CFR parts 907 and 908), both as amended, regulating the handling of California-Arizona navel and Valencia oranges, respectively. Both orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

This interim final rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the marketing orders now

in effect, California-Arizona navel and Valencia oranges are subject to assessments. It is intended that the assessment rates specified herein be made applicable to all assessable navel and Valencia oranges during the 1993–94 fiscal year, which begins on November 1, 1993. This interim final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 140 handlers of navel oranges and 125 handlers of Valencia oranges subject to regulation under the respective marketing orders. There are approximately 3,750 producers of navel oranges and 3,700 producers of Valencia oranges in the regulated areas. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of producers and handlers of California-Arizona navel and Valencia oranges may be classified as small entities.

The navel and Valencia orange marketing orders require that assessment rates for a particular fiscal year shall apply to all assessable navel or Valencia oranges handled from the beginning of such year. Annual budgets of expenses are prepared by the NOAC and the VOAC and submitted to the Department for approval. The members of the NOAC and VOAC are handlers and producers of navel and Valencia oranges. They are familiar with the NOAC's and VOAC's needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rates recommended by the NOAC and VOAC are derived by dividing anticipated expenses by expected shipments of navel or Valencia oranges. Because these rates are applied to actual shipments, they must be established at rates which will produce sufficient income to pay the NOAC's and VOAC's expected expenses. The recommended budget and rate of assessment are usually acted upon by each committee shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the NOAC and VOAC will have funds to pay their individual expenses.

The NOAC met on August 31, 1993, and unanimously recommended 1993–94 fiscal year expenditures of $1,589,768 and an assessment rate of $0.0260 per carton of navel oranges. Assessment income for 1993–94 is expected to total $1,235,000 based on shipments of 47.5 million cartons of oranges. Interest and incidental income is estimated at $11,000. The NOAC plans on utilizing $343,768 from its reserve to cover the difference between income and expenses. In comparison, 1992–93 fiscal year budgeted expenditures were $1,463,270, and the assessment rate was $0.0316 per carton.

Major expenditure categories in the 1993–94 budget are $682,975 for program administration, $134,463 for compliance activities, $567,355 for the field department, $199,975 for direct expenses, and $5,000 for a salary reserve. This compares to $496,010, $206,800, $591,360, $165,700, and $3,400, respectively, for the 1992–93 fiscal year.

The VOAC also met on August 31, 1993, and unanimously recommended 1993–94 fiscal year expenditures of $722,936 and an assessment rate of $0.0270 per carton of Valencia oranges. Assessment income for 1993–94 is expected to total $540,000 based on shipments of 20 million cartons of oranges. Interest and miscellaneous income is estimated at $4,800. The VOAC plans on utilizing $178,136 from its reserve to cover the difference between income and expenses. In comparison, 1992–93 fiscal year budgeted expenditures were $724,330, and the assessment rate was $0.032 per carton on Valencia oranges.

Major expenditure categories in the 1993–94 budget are $287,712 for program administration, $56,644 for compliance activities, $239,005 for the field department, $137,075 for direct expenses, and $2,500 for a salary reserve. This compares to $228,090, $95,100, $271,940, $127,600 and $1,600, respectively, for the 1992–93 fiscal year.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived from the operation of the marketing orders. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of the information and recommendations submitted by the NOAC and VOAC and other available information, it is found that this interim final rule will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because: (1) The NOAC and VOAC need to have sufficient funds to pay their respective expenses which are incurred on a continuous basis; (2) the fiscal year for the NOAC and VOAC begins November 1, 1993, and the marketing orders require that the rates of assessment for the fiscal year apply to all assessable oranges handled during the fiscal year; (3) handlers are aware of this action which was recommended by the NOAC and VOAC at public meetings and which are similar to budgets issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this action.

List of Subjects

7 CFR Part 907

Marketing agreements, Oranges, Reporting and recordkeeping requirements.

7 CFR Part 908

Marketing agreements, Oranges, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 907 and 7 CFR part 908 are amended as follows:

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

1. The authority citation for both 7 CFR parts 907 and 908 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. The new § 907.231 is added to read as follows:

Note: This section will not appear in the annual Code of Federal Regulations.

§ 907.231 Expenses and assessment rate.

Expenses of $1,589,768 by the Navel Orange Administrative Committee are authorized and an assessment rate of $0.0260 per carton on assessable oranges is established for the fiscal year ending October 31, 1994. Unexpended funds may be carried over as a reserve.

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

3. A new § 908.232 is added to read as follows:

Note: This section will not appear in the annual Code of Federal Regulations.

§ 908.233 Expenses and assessment rate.

Expenses of $722,936 by the Valencia Orange Administrative Committee are authorized and an assessment rate of $0.0270 per carton on assessable oranges is established for the fiscal year ending October 31, 1994. Unexpended funds may be carried over as a reserve.

Dated: October 22, 1993.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 93–26522 Filed 10–27–93; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Parts 945, 981, and 993

[Docket Nos. FV93–945–2FIR, FV93–981–3FIR, FV93–993–1FIR]

Expenses and Assessment Rates for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of three interim final rules that authorized expenditures and established assessment rates under Marketing Orders 945, 981, and 993 for the 1993–94 fiscal period. Authorization of these budgets enables the Idaho-Eastern Oregon Potato Committee, the Almond Board of California, and the Prune Marketing Committee (Committees and Board) to incur expenses that are reasonable and necessary to administer the programs. Funds to administer these programs are derived from assessments on handlers.

EFFECTIVE DATE: July 1, 1993, through June 30, 1994 for § 981.340; August 1, 1993, through July 31, 1994 for §§ 945.246, and 993.344.

FOR FURTHER INFORMATION CONTACT: Dennis L. West (M.O. 945), Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Green-Wyatt Federal Building, room 369, 1220 Southwest Third Avenue, Portland, OR 97204, telephone 503–326–2724; Martin Engeler (M.O. 981) and Richard P. Van Diest (M.O. 993), California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, suite 102B, 2202 Monterey Street, Fresno, CA 93721, telephone 209–487–5901; or Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–9918.

SUPPLEMENTARY INFORMATION: This rule is effective under Marketing Agreement No. 98 and Order No. 945, both as amended (7 CFR part 945), regulating the handling of Irish potatoes grown in designated counties in Idaho, and Malheur County, Oregon; Marketing Agreement and Order No. 981, both as amended (7 CFR part 981), regulating the handling of almonds grown in California and Marketing Agreement and Order No. 993, both as amended (7 CFR part 993), regulating the handling of dried prunes produced in California. The marketing agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, Irish potatoes, almonds, and prunes are subject to assessments. It is intended that the assessment rates as issued herein will be applicable to all assessable almonds handled during the 1993–94 crop year, which began July 1, 1993, through June 30, 1994, and all assessable potatoes, and prunes handled during the 1993–94 fiscal period, which began August 1, 1993, through July 31, 1994. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 2,200 producers of Idaho-Eastern Oregon

potatoes under Marketing Order 945, and approximately 66 handlers. There are approximately 7,000 producers of California almonds under Marketing Order 981 and approximately 115 handlers. Also, there are approximately 1,400 producers of California prunes under Marketing Order 993 and approximately 20 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of the producers and handlers covered under these orders may be classified as small entities.

The budgets of expenses for the 1993–94 fiscal period were prepared by the Idaho-Eastern Oregon Potato Committee, the Almond Board of California, and the Prune Marketing Committee, the agencies responsible for local administration of their respective orders, and submitted to the Department for approval. The members of these Committees and the Board are producers and handlers of Idaho-Eastern Oregon potatoes, California almonds, and California prunes. They are familiar with the Committees' and the Board's needs and with the costs for goods and services in their local areas and are thus in a position to formulate appropriate budgets. The budgets were formulated and discussed in public meetings. Thus, all directly affected persons have had an opportunity to participate and provide input into these processes.

The recommended assessment rates were derived by dividing anticipated Committee and Board expenses by expected respective shipments of Irish potatoes, and prunes, and by expected receipts of almonds. Because these rates will be applied to actual shipments of Irish potatoes, and prunes, and handlers' receipts of almonds, the assessment rates must be established at levels that will provide sufficient income to pay the Committees' and Board's expenses.

The Idaho-Eastern Oregon Potato Committee met June 8, 1993, and unanimously recommended a 1993–94 budget of $98,942, $10,407 more than the previous year. Increases include $2,607 for salaries, $1,000 for manager's travel, $300 for meetings and miscellaneous, $600 for Federal payroll taxes, and $6,000 for reserve/auto purchase.

The potato Committee also unanimously recommended an assessment rate of $0.0026 per hundredweight, the same as each year for the past decade. This rate, when applied to anticipated shipments of 31,000,000 hundredweight, will yield $80,600 in assessment income. This, along with $18,342 from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the Committee's authorized reserve at the beginning of the 1993–94 fiscal period, estimated at about $50,000, were within the maximum permitted by the order of one fiscal period's expenses.

The Almond Board of California met May 18, 1993, and recommended by a vote of 8 to 1 a 1993–94 budget of $11,445,000, $950,049 less than the previous year. This amount includes administrative and other expenses of $7,803,454, $2,183,405 more than the previous year, and $3,641,546 for creditable advertising expenditures. Increases in administrative and other expenses include $146,378 for salaries, $13,000 for employee benefits, $17,000 for retirement, $23,400 for payroll taxes, $101,500 for travel, $5,000 for Board travel, $4,000 for research conference, $5,672 for office rent, $4,100 for financial audit, $8,000 for Board insurance, $500 for security, $5,000 for telephone, $2,000 for postage & delivery, $7,000 for office supplies, $6,000 for printing, $1,000 for miscellaneous, $22,000 for newsletter/releases, $10,000 for contingencies, $1,800,000 for promotional activities, $1,500 for crop estimate, and the addition of $15,000 for staff training, $8,000 for equipment rent, $30,000 for contract labor/consultant, $10,000 for utilities, $5,000 for dues and subscriptions, $40,000 for computers and software, and $46,500 for furniture and fixtures. These increases would be partially offset by decreases of $10,000 for meetings, $28,500 for compliance audits and analysis, $25,000 for data processing, $250 for publications, $9,895 for production research, $25,000 for econometric model/analysis, $15,500 for vehicle replacement, $23,000 for office equipment, $10,000 for relocation expenses, and $7,000 for generic packs/promotion, for which no funding was recommended.

The Board also recommended, by a vote of 8 to 1, an assessment rate of 2.25 cents per kernel pound, the same as last year. The Board also recommended that handlers should be eligible to receive credit for their own authorized marketing promotion (paid advertising) activities for up to 1.00 cent of this 2.25 cents assessment rate, 0.25 cent less than last year. The 1.25 cents per kernel pound portion of the assessment for administrative expenses is .25 cent more than collected last year for administrative expenses. Revenues are expected to be $6,175,000 from administrative assessments (495,000,000 pounds @ 1.25 cents per pound), $699,998 from the portion of assessments eligible for credit but received by the Board from handlers who do not obtain credit for their own activities, $30,000 from interest, and $300,000 from the Board's reserve, for a total of $7,204,998. These projections will result in a $598,456 shortfall in revenue, based on current estimates of the 1993 crop yield. In light of this projected revenue shortfall, the Board recommended that any shortfall be applied against its generic promotion (paid advertising) activities and that the amount of money spent for these activities be reduced accordingly. However, the Board decided not to reduce the total amount ($5,400,000) estimated for this activity by the amount of the expected shortfall because its assessment revenue projections are conservatively estimated and it expects additional revenue to accrue.

The remaining $3,641,546 of recommended 1993–94 expenses is the estimated amount which handlers are expected to spend and have credited for their own authorized marketing promotion activities during the 1993–94 crop year. Unexpended funds from 1993–94 may be carried over to cover expenses during the first four months of the 1994–95 crop year.

The Prune Marketing Committee met June 22, 1993, and unanimously recommended a 1993–94 budget of $248,805, $36,195 less than the previous year. An increase of $1,750 for operating expenses will be offset by decreases of $29,400 for salaries and wages and $8,545 in the reserve for contingencies.

The Committee also unanimously recommended an assessment rate of $1.90 per salable ton, $0.30 more than the previous year. This rate, when applied to anticipated shipments of 130,950 salable tons, will yield $248,805 in assessment income, which will be adequate to cover budgeted expenses. Any funds not expended by the Committee during a crop year may be used, pursuant to § 993.81(c), for a period of five months subsequent to that crop year. At the end of such period, the excess funds are returned or credited to handlers.

Interim final rules were published in the **Federal Register** on July 13, 1993, for 7 CFR part 981 (58 FR 37636); on July 16, 1993, for 7 CFR part 945 (58 FR 38274); and on July 30, 1993, for 7 CFR part 993 (58 FR 40721). Those rules added § 981.340, § 945.246, and § 993.344 which authorized expenses, and established assessment rates for the Committees and Board. Those rules

provided that interested persons could file comments through August 12, 1993, for 7 CFR part 981, through August 16, 1993, for 7 CFR part 945, and through August 30, 1993, for 7 CFR part 993. One comment was received from the Almond Board of California requesting changes in the supplementary information and the regulatory language in § 981.340 to remove all references to creditable advertising expenditures and replace them with references to Credit-Back activities. An interim final rule was published in the August 17, 1993, Federal Register (58 FR 43500) which, among other things, revised § 981.441 of the almond administrative rules and regulations to provide for Credit-Back for market promotion activities. The Board stated in its comment that the requested revisions in the budget and assessment document would bring that document into conformity with the revised administrative rules and avoid any possible confusion in terminology as the industry moved to the new system. The Credit-Back interim final rule did not impact the total amount of Board expenses authorized or the assessment rate fixed for administrative and Credit-Back purposes for the 1993–94 fiscal period. That rule regulates how a handler can receive credit for authorized promotion and paid advertising. Because of this, the changes requested by the Board in the budget and assessment rate document are not necessary. Therefore, the Board's suggested changes are denied. No other comments were received.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing orders. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

It is found that the specified expenses for the marketing orders covered in this rulemaking are reasonable and likely to be incurred and that such expenses and the specified assessment rates to cover such expenses will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register (5 U.S.C. 553) because the Committees and the Board need to have sufficient funds to pay their expenses which are incurred on a continuous basis. The 1993–94 fiscal periods began on July 1, 1993, for California almonds and on August 1, 1993, for Idaho-Eastern Oregon potatoes and California prunes. The marketing orders require that the rates of assessment for the fiscal periods apply to all assessable potatoes, almonds, and prunes handled during the fiscal periods. In addition, handlers are aware of these actions which were recommended by the Committees and the Board at public meetings and published in the Federal Register as interim final rules.

List of Subjects

7 CFR Part 945

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

7 CFR Part 993

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 945, 981, and 993 are amended as follows:

1. The authority citation for 7 CFR Parts 945, 981, and 993 is revised to read as follows:

Authority: 7 U.S.C. 601–674.

Note: These sections will not appear in the annual Code of Federal Regulations.

PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

For the reasons set forth in the preamble, the interim final rule adding § 945.246 which was published in the Federal Register (58 FR 38274, July 16, 1993), is adopted as a final rule without change.

PART 981—ALMONDS GROWN IN CALIFORNIA

For the reasons set forth in the preamble, the interim final rule adding § 981.340 which was published in the Federal Register (58 FR 37636, July 13, 1993), is adopted as a final rule without change.

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

For the reasons set forth in the preamble, the interim final rule adding § 993.344 which was published in the Federal Register (58 FR 40721, July 30, 1993), is adopted as a final rule without change.

Dated: October 22, 1993.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 93–26523 Filed 10–27–93; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 984

[Docket No. FV93–984–1IFR]

Walnuts Grown in California; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 984 for the 1993–94 marketing year. Authorization of this budget enables the Walnut Marketing Board (Board) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective August 1, 1993, through July 31, 1994. Comments received by November 29, 1993, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, FAX 202–720–5698. Comments should reference the docket number and the date and page number of this issue of the Federal Register and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Richard P. Van Diest, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, suite 102B, 2202 Monterey Street, Fresno, CA 93721, telephone 209–487–5901, or Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–9918.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 984, both as amended (7 CFR part 984), regulating the handling of walnuts grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the marketing order now in effect, California walnuts are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable walnuts handled during the 1993–94 marketing year, from August 1, 1993, through July 31, 1994. This interim final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 5,000 producers of California walnuts under this marketing order, and approximately 65 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of California walnut producers and handlers may be classified as small entities.

The budget of expenses for the 1993–94 marketing year was prepared by the Walnut Marketing Board, the agency responsible for local administration of the marketing order, and submitted to the Department for approval. The members of the Board are producers and handlers of California walnuts. They are familiar with the Board's needs and with the costs of goods and services in their local areas and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the Board was derived by dividing anticipated expenses by expected merchantable certifications of California walnuts. Because that rate will be applied to the actual quantity of certified merchantable walnuts, it must be established at a rate that will provide sufficient income to pay the Board's expenses.

The Board met September 10, 1993, and unanimously recommended a 1993–94 budget of $1,941,647, $69,551 more than the previous year. Increases include $4,511 for administrative salaries, $171 for general insurance, $200 for audit, $7,649 for group life, retirement, and medical plan, $835 for office salaries, $7,904 for office rent, $6,000 for office supplies and miscellaneous, $1,000 for telephone and FAX, $2,000 for equipment maintenance and warranties, $9,000 for furniture, fixtures, and automobiles, $7,450 for production research director, and the addition of a $43,000 acreage survey category. These increases will be partially offset by decreases of $300 for social security and hospital insurance taxes, $5,000 for domestic market research and development, and $14,869 for production research. Major expenses include $101,331 for administrative salaries, $40,771 for office salaries, $875,000 for domestic market research and development, $490,488 for production research, $91,068 for production research director, and $43,000 for a walnut acreage survey. A reserve for contingencies of $50,000 is also included in the 1993–94 budget.

The Board also unanimously recommended an assessment rate of $0.009 per kernelweight pound, $0.001 less than the previous year. This rate, when applied to anticipated shipments of 2,157,386 kernelweight pounds of merchantable walnuts, will yield $1,941,647 in assessment income, which will be adequate to cover budgeted expenses. Unexpended funds may be used temporarily during the first five months of the subsequent marketing year, but must be made available to the handlers from whom collected within that period.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis, (2) the marketing year began on August 1, 1993, and the marketing order requires that the rate of assessment for the marketing year apply to all assessable walnuts handled during the marketing year; (3) handlers are aware of this action which was unanimously recommended by the Board at a public meeting and similar to other budget actions issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 984

Marketing agreements, Nuts, Reporting and recordkeeping requirements, Walnuts.

For the reasons set forth in the preamble, 7 CFR part 984 is amended as follows:

PART 984—WALNUTS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 984 is revised to read as follows:

Authority: 7 U.S.C. 601–674.

Note: This section will not appear in the annual Code of Federal Regulations.

2. A new § 984.344 is added to read as follows:

§ 984.344 Expenses and assessment rate.

Expenses of $1,941,647 by the Walnut Marketing Board are authorized, and an assessment rate of $0.009 per kernelweight pound of merchantable walnuts is established for the marketing year ending July 31, 1994. Unexpended funds may be used temporarily during the first five months of the subsequent marketing year, but must be made available to the handlers from whom collected within that period.

Dated: October 22, 1993.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 93–26524 Filed 10–27–93; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 1138

[DA–93–25]

Milk in the New Mexico-West Texas Marketing Area; Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends for two years the provisions of the New Mexico-West Texas order that limit diversions of producer milk. The request for the suspension was made by Associated Milk Producers, Inc. (AMPI), which represents most of the producers who deliver milk to plants regulated by the New Mexico-West Texas order. AMPI requested this suspension to facilitate the pooling of all the milk produced by its members in that area.

EFFECTIVE DATE: October 1, 1993, through September 30, 1995.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 690–1932.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued August 23, 1993; published August 27, 1993 (58 FR 45295).

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. This action will lessen the regulatory impact of the order on certain milk handlers and will tend to ensure that dairy farmers will have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This rule is being issued in conformance with Executive Order 12866, and it has been determined that it is not a "significant regulatory action."

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have a retroactive effect, and it will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act, as amended (7 U.S.C. 601–674) (the Act), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law and requesting a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and the rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR, part 900).

Notice of proposed rulemaking was published in the **Federal Register** (58 FR 45295) on August 27, 1993, concerning the proposed suspension of the diversion limits of the New Mexico-West Texas order for a two-year period. The public was afforded the opportunity to comment on the notice by submitting written data, views, and arguments by September 27, 1993. No comment letters were received.

After consideration of all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that the following provisions of the order will not tend to effectuate the declared policy of the Act during the months of October 1993 through September 1995.

1. In § 1138.7(a)(1), the words "including producer milk diverted from the plant,";

2. In § 1138.7(c), the words "35 percent or more of the producer"; and

3. In § 1138.13(d), paragraphs (1), (2) and (5).

Statement of Consideration

This suspension was requested by Associated Milk Producers, Inc., a cooperative association representing the vast majority of producers for the New Mexico-West Texas market. AMPI requested the suspension to facilitate the pooling of all the milk produced in the area by its members.

AMPI states that milk production in New Mexico alone has slightly more than doubled in the last five years (from 1,094 million pounds in 1988 to 2,249 million pounds in 1992) and that further production increases can be expected. At the same time, Class I use has remained stable at about 60–65 million pounds each month. AMPI indicates that cheese production has increased —and can be expected to increase further—to accommodate the increased local milk supplies. However, under current provisions of the New Mexico-West Texas order, all of the milk that may be used in cheese production cannot be pooled.

For these reasons, it is appropriate to suspend certain provisions of the order to permit milk that has been associated with the New Mexico-West Texas market to remain pooled under the order. In particular, it is appropriate to suspend: (1) The provision that requires that diverted milk be included as a receipt at distributing plants for computing whether the plants are "pool plants;" (2) the requirement that a cooperative association must deliver at least 35 percent of its milk supply to distributing plants in order to pool a plant located in the marketing area that is operated by the cooperative association and is neither a distributing plant nor a supply plant; (3) the requirement during the months of September through January that a producer's milk must be delivered to a pool plant at least one day per month to be eligible to be diverted to a nonpool plant on other days of the month; (4) the provision that limits the amount of milk

a cooperative association may divert to nonpool plants to an amount of milk that does not exceed the amount delivered to, and physically received at, pool plants during the month; and (5) the provision that eliminates from the pool any diverted milk that would cause a plant to lose its status as a pool plant because too much diverted milk had been considered as a receipt at the pool plant.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) The suspension is necessary to assure orderly marketing conditions by permitting all of the milk that has been associated with the New Mexico-West Texas market to remain pooled under the order;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties, and they were afforded opportunity to file written data, views, or arguments concerning this suspension.

Therefore, good cause exists for making this order effective October 1, 1993.

List of Subjects in 7 CFR Part 1138

Milk marketing orders.

For the reasons set forth in the preamble, the following provisions in title 7 part 1138 are suspended as follows:

PART 1138—MILK IN THE NEW MEXICO-WEST TEXAS MARKETING AREA

1. The authority citation for 7 CFR part 1138 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1138.7 [Temporarily suspended in part].

2. In § 1138.7(a)(1), the words "including producer milk diverted from the plant," are suspended from October 1, 1993 through September 30, 1995.

3. In § 1138.7(c), the words "35 percent or more of the producer" are suspended from October 1, 1993 through September 30, 1995.

§ 1138.13 [Temporarily suspended in part].

4. In § 1138.13, paragraphs (d)(1), (2), and (5) are suspended from October 1, 1993 through September 30, 1995.

Dated: October 21, 1993.

Patricia Jensen,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–26525 Filed 10–27–93; 8:45 am]

BILLING CODE 3410–02–P

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. 93–062–2]

Tuberculosis in Cattle and Bison; State Designation

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the tuberculosis regulations concerning the interstate movement of cattle and bison by raising the designation of Hawaii from a modified accredited State to an accredited-free State. We have determined that Hawaii meets the criteria for designation as an accredited-free State.

EFFECTIVE DATE: November 29, 1993.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Stenseng, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, room 729, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8715.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective and published in the **Federal Register** on June 29, 1993 (58 FR 34699–34700, Docket No. 93–062–1), we amended the tuberculosis regulations in 9 CFR part 77 by removing Hawaii from the list of modified accredited States in § 77.1 and adding it to the list of accredited-free States in that section.

Comments on the interim rule were required to be received on or before August 30, 1993. We did not receive any comments. The facts presented in the interim rule still provide a basis for the rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12291 and the Regulatory Flexibility Act, Executive Orders 12372 and 12778, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

PART 77—TUBERCULOSIS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR 77.1 and that was published at 58 FR 34699–34700 on June 29, 1993.

Authority: 21 U.S.C. 111, 114, 114a, 115–117, 120, 121, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 21st day of October 1993.

Patricia Jensen,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–26520 Filed 10–27–93; 8:45 am]

BILLING CODE 3410–34–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

RIN 3150–AE82

Export and Import of Nuclear Equipment and Material; Export of High-Enriched Uranium

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations pertaining to the export and import of nuclear equipment and material to implement section 903 of the Energy Policy Act of 1992. The final rule augments NRC regulations to include the criteria for the export of high-enriched uranium specified in the Energy Policy Act.

DATES: The rule becomes effective November 29, 1993. Submit comments on or before January 10, 1994.

ADDRESSES: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:45 am and 4:15 pm Federal workdays. (Telephone 301–504–1966.)

Copies of comments received may be examined at: the NRC Public Document Room at 2120 L Street NW (Lower Level), Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Elaine Hemby, Office of International Programs, U.S. Nuclear Regulatory

Commission, Washington, DC 20555, Telephone (301) 504–2341.

SUPPLEMENTARY INFORMATION: The Energy Policy Act of 1992 (Pub. L. 102–496), was enacted on October 24, 1992. Section 903 of that Act added a new section 134 to the Atomic Energy Act of 1954, as amended. The new section 134 provides that the NRC may issue a license for the export of high-enriched uranium to be used as a fuel or as a target in a nuclear research or test reactor only if, in addition to any other requirement of that Act, the Commission determines that:

(1) There is no alternative nuclear reactor fuel or target enriched in the isotope 235 to a lesser percent than the proposed export, that can be used in that reactor;

(2) The proposed recipient of that uranium has provided assurances that, whenever an alternative nuclear reactor fuel or target can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

(3) The United States Government is actively developing an alternative nuclear reactor fuel or target that can be used in that reactor.

Section 134 b. of the Atomic Energy Act of 1954, as amended, defines the operative terms as follows:

b. As used in this section—

"(1) The term 'alternative nuclear reactor fuel or target' means a nuclear reactor fuel or target which is enriched to less than 20 percent in the isotope U-235;

(2) The term 'highly enriched uranium' means uranium enriched to 20 percent or more in the isotope U-235; and

(3) A fuel or target 'can be used' in a nuclear research or test reactor if—

(A) The fuel or target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy, and

(B) Use of the fuel or target will permit the large majority of ongoing and planned experiments and isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor."

The Commission has adopted amendments to §§ 110.2 and 110.42(a) of 10 CFR part 110 to include provisions of section 134 of the Atomic Energy Act of 1954, as amended. The amendment to § 110.2 adds a definition of the term "target" as used in the statute. The amendment to § 110.42 adds a new paragraph (a)(9) that sets forth the criteria for export of high-enriched uranium as specified in the legislation.

This rulemaking involves a foreign affairs function of the United States. Additionally, the Atomic Energy Act of 1954, as amended, directs the Commission to impose the limitations on the issuance of licenses to export high-enriched uranium as described above. The changes to Commission regulations incorporate and interpret the relevant language of the Energy Policy Act of 1992 into 10 CFR part 110. The Commission has therefore found that, for the reasons stated above, notice of proposed rulemaking and comment thereon are not required by the Administrative Procedure Act (5 U.S.C. 553(a)(1), codified at 10 CFR 110.132(e), and 5 U.S.C. 553(b)(A)). Nevertheless, any interested member of the public who believes that the Commission has not accurately conformed part 110 to section 134 of the Atomic Energy Act of 1954, as amended, or has comments on any other relevant issue is invited to submit comments within 75 days of the date of publication of this rule.

Environmental Impact: Categorical Exclusion

The NRC has determined that the final rule in part 110 is the type of action described in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0036.

Regulatory Analysis

The Commission has considered alternatives to as well as the costs and benefits of the final rule. There is no alternative to amending NRC's regulations in 10 CFR part 110 because the Energy Policy Act of 1992 directs the Commission to impose limitations on the issuance of licenses to export high-enriched uranium. NRC's regulations already provide strong regulatory control over the export of high-enriched uranium by strictly limiting its supply; therefore, the rule will have minimal impact on affected exporters. The final rule will not result in any increase or cost to the public. The foregoing constitutes the regulatory analysis for this final rule.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule, and, therefore, a backfit analysis is not required for this final rule because part 110 applies only to the export and import of nuclear facilities, material and components, and does not deal with domestic facilities.

List of Subjects in 10 CFR Part 110

Administrative practice and procedure, Classified information, Criminal penalties, Export, Import, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Scientific equipment.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR part 110.

PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

1. The authority citation for part 110 is revised to read as follows:

Authority: Secs. 51, 53, 54, 57, 63, 64, 65, 81, 82, 103, 104, 109, 111, 126, 127, 128, 129, 161, 181, 182, 183, 187, 189, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2071, 2073, 2074, 2077, 2092–2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2141, 2154–2158, 2201, 2231–2233, 2237, 2239); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 5, Pub. L. 101–575, 104 Stat. 2835 (42 U.S.C. 2243).

Sections 110.1(b)(2) and 110.1(b)(3) also issued under Pub. L. 96–92, 93 Stat. 710 (22 U.S.C. 2403). Section 110.11 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152) and secs. 54c and 57d., 88 Stat. 473, 475, (42 U.S.C. 2074). Section 110.27 also issued under sec. 309(a), Pub. L. 99–440. Section 110.50(b)(3) also issued under sec. 123, 92 Stat. 142 (42 U.S.C. 2153). Section 110.51 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 110.52 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236). Sections 110.80–110.113 also issued under 5 U.S.C. 552, 554. Sections 110.130–110.135 also issued under 5 U.S.C. 553. Sections 110.2 and 110.42(a)(9) also issued under sec. 903, Pub. L. 102–496 (42 U.S.C. 2151 et seq.).

2. In § 110.2, a definition of "target" is added to read as follows:

§ 110.2 Definitions.

* * * * *

Target means material subjected to irradiation in an accelerator or nuclear reactor to induce a reaction or produce nuclear material.

* * * * *

3. In § 110.42, paragraph (a)(9) is added to read as follows:

§ 110.42 Export licensing criteria.

(a)* * *

(9) (i) With respect to exports of high-enriched uranium to be used as a fuel or target in a nuclear research or test reactor, the Commission determines that:

(A) There is no alternative nuclear reactor fuel or target enriched to less than 20 percent in the isotope U-235 that can be used in that reactor;

(B) The proposed recipient of the uranium has provided assurances that, whenever an alternative nuclear reactor fuel or target can be used in that reactor, it will use that alternative fuel or target in lieu of highly-enriched uranium; and

(C) The United States Government is actively developing an alternative nuclear reactor fuel or target that can be used in that reactor.

(ii) A fuel or target "can be used" in a nuclear research or test reactor if—

(A) The fuel or target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy; and

(B) Use of the fuel or target will permit the large majority of ongoing and planned experiments and isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor.

* * * * *

Dated at Rockville, MD, this 13th day of October 1993.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 93-26562 Filed 10-27-93; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 93-AGL-12]

Establishment of Class E Airspace; Manitowish Waters, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace near Manitowish Waters, WI, to accommodate a new Nondirectional Beacon (NDB) approach procedure at Manitowish Waters Airport, Manitowish Waters, WI, excluding that airspace within the Minocqua-Woodruff Class E airspace. The area will be depicted on aeronautical charts to provide a reference for pilots operating in the area.

EFFECTIVE DATE: 0901 UTC, January 6, 1994.

FOR FURTHER INFORMATION CONTACT: Robert A. Frink, Air Traffic Division, System Management Branch, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (708) 294-7568.

SUPPLEMENTARY INFORMATION:

History

On Tuesday, July 6, 1993, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish the Class E airspace near Manitowish Waters, WI, excluding that airspace within the Minocqua-Woodruff Class E airspace (58 FR 36158). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Airspace Reclassification, which became effective September 16, 1993, discontinued the use of the term "transition area" and replaced it with the designation "Class E airspace". Except for editorial changes, this amendment is the same as that proposed in the notice. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations establishes Class E airspace at Manitowish Waters, WI to accommodate a new NDB approach procedure, excluding that airspace within Minocqua-Woodruff Class E airspace.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a significant regulatory action under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389, 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Reclassification, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL WI E5 Manitowish Waters, WI [NEW]

Manitowish Waters Airport, WI
(lat. 46°07'18" N, long. 89°53'03" W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Manitowish Waters, WI, Airport.

* * * * *

Issued in Des Plaines, Illinois, on October 12, 1993.

John P. Cuprisin,

Manager, Air Traffic Division.

[FR Doc. 93-26468 Filed 10-27-93; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 888

[Docket No. N-93-3616; FR-3510-N-04]

Section 8 Housing Assistance Payments Program; Fair Market Rent Schedules for Use in the Rental Certificate Program, Loan Management and Property Disposition Programs, Moderate Rehabilitation Program and Rental Voucher Program; Correction

AGENCY: Office of the Secretary, HUD.

ACTION: Correction.

SUMMARY: On October 1, 1993 (58 FR 51410), the Department published the final FY 1994 Fair Market Rents (FMRs)

for certain Section 8 Housing Assistance Payments programs. The purpose of this notice is to list areas that were inadvertently omitted as areas that should have been identified with an asterisk next to their FMR schedules. The asterisk would have indicated that comments had been submitted for those areas, or that the Department had been notified by the August 31 deadline that contracts had been let for RDD or other professional rental housing surveys.

FOR FURTHER INFORMATION CONTACT: Michael R. Allard, Economic and Market Analysis Division, Office of Economic Affairs, telephone (202) 708–0577; TDD (202) 708–0770. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Under section 8(c)(1) of the United States Housing Act of 1937, and the Department's regulations at 24 CFR part 888, on October 1, 1993, HUD published final FY 1994 FMRs for the Section 8 Rental Certificate program (part 882, subparts A and B), including space rentals by owners of manufactured homes under the Section 8 Rental Certificate program (part 882, subpart F); the Section 8 Moderate Rehabilitation program (part 882, subparts D and E); Section 8 housing assisted under part 886, subparts A and C (Section 8 Loan Management and Property Disposition programs); and as used to determine payment standard schedules in the Rental Voucher program (part 887). In that Notice, HUD announced that 612 FMR areas would continue to use the FY 1993 FMRs pending final review of their public comments. A number of areas were inadvertently omitted as areas that should have been identified with an asterisk next to their FMR schedules. These were areas for which comments had been submitted, or for which the Department had been notified by the August 31 deadline that contracts had been let for RDD or other professional rental housing surveys. Following are the FMR areas, with corrected FMRs, that should have been so identified in October 1, 1993. The second publication of final FMRs later this year will announce revisions, as appropriate, for the areas whose FMRs are still being evaluated.

FMR areas	Fair market rents (bedrooms)				
	0	1	2	3	4
Arkansas:					
Lawrence County	243	295	346	434	487
Colorado:					
Colorado Springs, CO MSA	353	428	504	632	708
Las Animas County	351	424	500	627	703
Montrose County	464	561	661	827	927
Morgan County	299	364	428	536	602
Prowers County	306	368	428	536	602
Iowa:					
Iowa City, IA MSA	374	457	537	672	753
Idaho:					
Adams County	321	392	462	576	647
Boise County	321	392	462	576	647
Illinois:					
Kankakee, IL PMSA	329	399	471	590	662
Fulton County	315	385	454	566	635
Maryland:					
Garrett County	294	358	422	526	591
Minnesota:					
Big Stone County	265	324	382	479	535
Dodge County	269	327	385	482	540
Douglas County	297	363	426	535	600
Fillmore County	275	334	395	494	552
Goodhue County	287	349	409	507	568
Morrison County	281	341	401	503	564
Mississippi:					
Warren County	296	359	423	532	595
Yazoo County	296	359	423	532	595
New Mexico:					
Santa Fe, NM MSA	458	557	657	819	919
North Dakota:					
Bismarck, ND MSA	335	407	479	599	672
Oregon:					
Medford-Ashland, OR MSA	420	435	512	676	748
Benton County	391	477	563	704	787
Clatsop County	375	456	537	671	751
Coos County	403	489	577	721	808
Curry County	403	489	577	721	808
Douglas County	403	489	577	721	808
Josephine County	403	489	577	721	808
Linn County	391	477	563	704	787
Pennsylvania:					
Bradford County	214	305	382	498	536
Erie, PA MSA	388	473	556	698	781
Northumberland County	337	393	463	578	648
Warren County	243	306	323	466	522
South Dakota:					
Brown County	293	354	415	520	582
Texas:					

FMR areas	Fair market rents (bedrooms)				
	0	1	2	3	4
San Antonio, TX MSA	338	389	504	701	827
Utah:					
Salt Lake City-Ogden, MSA	297	345	438	608	713
Box Elder County	326	396	468	585	657
Cache County	326	396	468	585	657
Tooele County	326	396	468	585	657
Washington County	388	466	550	687	772
Washington:					
Klickitat County	360	437	515	646	725
Walla Walla County	385	467	552	689	773
Wyoming:					
Albany County	289	357	421	526	584

The FMRs for the following two areas are corrected based on the results of RDD surveys that were previously conducted but were not accounted for in the October 1, 1993, publication.

	Bedrooms				
	0	1	2	3	4
Tucson, AZ MSA	323	392	522	726	857
Springfield, MA MSA	389	481	608	760	931

In addition, the New Hampshire towns of Seabrook and Southampton were omitted from the Boston, MA-NH PMSA definition. The applicable FMRs for these two towns are those published for the Boston, MA-NH PMSA.

Dated: October 25, 1993.

Myra L. Ransick,

Assistant General Counsel for Regulations.

[FR Doc. 93-26598 Filed 10-27-93; 8:45 am]

BILLING CODE 4210-32-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 2F4036 and 3F4185/R2014; FRL-4643-2]

RIN No. 2070-AB78

Pesticide Tolerance for Flumetsulam

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the new herbicide flumetsulam, *N*-(2,6-difluorophenyl)-5-methyl-(1,2,4)-triazolo-[1,5a]-pyrimidine-2-sulfonamide, in or on the raw agricultural commodities (RAC) corn, field, grain; corn, field, fodder; corn, field, forage; and soybeans at 0.05 part per million (ppm). This regulation was requested by DowElanco.

EFFECTIVE DATE: This regulation becomes effective on October 28, 1993.

ADDRESSES: Written objections, identified by the document control number, [PP 2F4036 and PP 3F4185/R2014], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Product Manager (PM 23), Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-305-7830.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of March 11, 1992 (57 FR 8658), which announced that DowElanco, 9002 Purdue Rd., Indianapolis, IN 46268-1189, had submitted pesticide petition (PP) 2F4036 to EPA proposing that 40 CFR part 180 be amended by establishing under section 408 of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a, a tolerance for the herbicide flumetsulam (then coded DE-498), *N*-(2,6-difluorophenyl)-5-methyl-(1,2,4)-triazolo-[1,5a]-pyrimidine-2-sulfonamide, in or on the raw agricultural commodities (RAC) corn, field, grain; corn, field, fodder; corn, field, forage; and soybeans at 0.05 part per million (ppm).

EPA received no comments in response to the notice of filing.

EPA has evaluated the data submitted in the petition and other relevant material. The data and other relevant material are described below.

1. In a 21-day dermal study in rabbits, local cutaneous irritative effects were observed at 100, 500, or 1,000 milligrams per kilogram (mg/kg), but no evidence of systemic toxicity was present in test animals up to 1,000 milligrams per kilogram per day (mg/kg/day) (limit dose). Systemic no-observed-effect level (NOEL) was greater than or equal to 1,000 mg/kg/day (limit dose).

2. In a 13-week oral feeding study in mice at 5,000 mg/kg/day, slight effects on the liver, kidney, and cecum appear to represent adaptive responses to treatment and have questionable toxicological significance. The NOEL was 1,000 mg/kg/day (limit dose).

3. In a 13-week oral feeding study in dogs, the lowest-observed-effect level (LOEL) for both male and female dogs was 500 mg/kg/day. A NOEL was not established for males or females.

4. In a 13-week dietary study in rats, the NOEL was 250 mg/kg/day and the LOEL was 1,000 mg/kg/day.

5. In a rat developmental toxicity study there was no evidence of developmental toxicity. Maternal NOEL was 500 mg/kg/day, maternal LOEL was 1,000 mg/kg/day, and developmental NOEL was greater than 1,000 mg/kg/day (highest dose tested).

6. In a developmental toxicity study in New Zealand white rabbits, maternal toxicity was evidenced at 500 and 700 mg/kg/day by decreased body weight gain. Clinical signs included anorexia and moribundity or death at these doses. Maternal NOEL was 100 mg/kg/day; maternal LOEL was 500 mg/kg/day. Developmental Toxicity NOEL was

greater than or equal to 700 mg/kg/day (highest dose tested).

7. In a 1-year dietary study in dogs, the NOEL was 100 mg/kg/day and the LOEL was 500 mg/kg/day.

8. In a combined feeding carcinogenicity/chronic study in mice there were no treatment-related effects and there was no evidence of a carcinogenic response. Systemic NOEL was greater than or equal to 1,000 mg/kg/day (limit dose); a LOEL was not established.

9. In a combined feeding carcinogenicity/chronic study in rats, renal pathological alterations were seen in males. No treatment-related effects were seen in females at the highest dose (1,000 mg/kg/day) which is the limit dose. There was no carcinogenic response. The NOELs were 500 mg/kg/day in males and 1,000 mg/kg/day in females. The LOEL was 1,000 mg/kg/day in males; a LOEL was not established in females.

10. In a rat two-generation reproduction study there was no compound- related reproductive toxicity. NOEL was greater than 1,000 mg/kg/day.

11. Salmonella/mammalian-microsome mutagenicity test, negative.

12. Unscheduled DNA (*in vitro*) synthesis, negative.

13. *In vivo* micronucleus assay in mice, negative.

14. *In vitro* gene mutation, negative.

It was recommended by the Health Effects Division RfD/Peer Review Committee that a Reference Dose (RfD) be established based upon a NOEL of 100 mg/kg/day from a 1-year dietary study in dogs, using an uncertainty factor (UF) of 100 to account for interspecies extrapolation and intraspecies variability. On this basis the RfD was calculated to be 1.0 mg/kg/day.

The Dietary Risk Evaluation Section's chronic exposure analysis was performed using tolerance level residues and 100-percent crop treated information to estimate the Theoretical Maximum Residue Contribution (TMRC) for the general population and 22 population subgroups. The TMRC values represent only the exposure due to corn and soybeans since there are no other pending or published tolerances for flumetsulam. The use on corn and soybeans results in a TMRC for the general population of 3.4×10^{-5} milligram per kilogram body weight per day (mg/kg bwt/day) which occupies 0.0034% of the RfD. None of the dietary exposure subgroups exceeds 1% of the RfD. The highest exposed subgroup, nonnursing infants less than 1 year old, has a TMRC of 1.3×10^{-4} mg/kg bwt/day, or 0.013% of the RfD. Therefore, the exposure appears to be of minimal concern for setting tolerances on corn, field, grain; corn, field, fodder; corn, field, forage; and soybeans at 0.05 ppm. Also, the exposure values generated may overestimate exposures due to the use of tolerance level residues as well as 100% crop treated for the soybeans.

A section 409 tolerance for flumetsulam on corn and soybeans is not needed because residues are not expected to concentrate on processing. It was determined that a processing study on soybeans and food additive tolerances was not needed since no residues were found in soybeans after postemergence treatment at 6X, the theoretical concentration factor for soybean oil. It was determined that food additive tolerances were not needed for corn since no residues were found in corn or corn-processing fractions after postemergence treatment at 3X and since concentration in oil is highly unlikely based on properties of flumetsulam.

There are no pending regulatory actions against the registration of this pesticide. The pesticide is useful for the purpose for which this tolerance is sought. Adequate analytical methodology is available for enforcement purposes. The methods are not yet published in the Pesticide Analytical Manual, Vol. II (PAM II), but can be obtained in the interim period as follows: By mail from: Calvin Furlow, Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Crystal Mall #2, Rm. 1128, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5805.

Based on the information cited above, the Agency has determined the tolerances established by amending 40 CFR part 180 would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections with the Hearing Clerk, at the address given above. 40 CFR 178.20. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections. 40 CFR 178.25. Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on each such issue, and a summary of any evidence relied upon by the objector. 40 CFR 178.27. A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested. 40 CFR 178.32.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 19, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. By adding new § 180.468 to subpart C, to read as follows:

§ 180.468 Flumetsulam; tolerances for residues.

Tolerances are established for residues of the herbicide flumetsulam, *N*-(2,6-difluorophenyl)-5-methyl-(1,2,4)-triazolo-[1,5a]-pyrimidine-2-sulfonamide, in or on the following raw agricultural commodities:

Commodity	Parts per million
Corn, field, grain	0.05
Corn, field, fodder	0.05

Commodity	Parts per million
Corn, field, forage	0.05
Soybeans	0.05

[FR Doc. 93–26550 Filed 10–27–93; 8:45 am]
BILLING CODE 6560–50–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 605

[Docket No. 9308243224; I.D. 072193C]

Regional Fishery Management Council Guidelines; Conduct of Meetings; Extension of Comment Period

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim final rule; extension of comment period.

SUMMARY: This document extends the comment period from October 27, 1993, to November 26, 1993, on the interim final rule concerning guidelines governing the conduct of meetings for Regional Fishery Management Councils, which was published in the **Federal Register** on September 27, 1993 (58 FR 50288). The comment period is extended in response to requests received from the public in order to allow additional time for the consideration and submission of comments.

DATES: Comments must be received on or before November 26, 1993.

ADDRESSES: Comments should be sent to David S. Crestin, Deputy Director, Office of Fisheries Conservation and Management, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: David S. Crestin, Deputy Director, Office of Fisheries Conservation and Management, (301) 713–2334.

Dated: October 22, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–26582 Filed 10–27–93; 8:45 am]
BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 58, No. 207
Thursday, October 28, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 93-029-1]

Importation of Restricted Articles; Port Everglades, FL

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations concerning the importation of nursery stock, plants, roots, bulbs, seeds, and other plant products by allowing restricted articles that require a written permit to be imported into Port Everglades at Fort Lauderdale, FL, provided they are then moved by ground transportation and under U.S. Customs bond to the Miami, FL, plant inspection station. Because many U.S. importers use shipping companies that go into Port Everglades, FL, but not Miami, FL, these importers would prefer to import restricted articles that require a written permit through the Port Everglades, FL, port of entry. However, Port Everglades, FL, does not have the necessary facilities to inspect and clear those restricted articles. The intended effect is to provide U.S. importers with another option for importing those restricted articles while protecting U.S. agriculture from significant risk of plant pests and diseases.

DATES: Consideration will be given only to comments received on or before December 27, 1993.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 93-029-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are encouraged to call ahead 202-690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Don Thompson, Operations Officer, Port Operations, Plant Protection and Quarantine, APHIS, USDA, room 638, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8295.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 319 prohibit or restrict the importation into the United States of certain plants and plant products to prevent the introduction of plant pests. Sections 319.37 through 319.37-14 (referred to below as the regulations) contain restrictions on the importation into the United States of nursery stock, plants, roots, bulbs, seeds, and other plant products. Sections 319.37-2 and 319.37-3 list prohibited and restricted articles.

Section 319.37-14(b) of the regulations contains a list of the approved ports of entry through which restricted articles may be imported into the United States. Restricted articles that do not require a written permit may be imported through any of the approved ports of entry; restricted articles that do require a written permit, because of their greater plant pest and disease risk, may be imported only through ports equipped with special inspection and treatment facilities. Ports having these special facilities, known as plant inspection stations, are indicated on the list by an asterisk.

We are proposing to amend the regulations by allowing restricted articles that require a written permit to be imported into Port Everglades at Fort Lauderdale, FL, provided they are then moved by ground transportation and under U.S. Customs bond to the Miami, FL, plant inspection station. Now, restricted articles that require a written permit for importation into the United States may not be imported through Port Everglades, FL, because it does not have the facilities necessary to inspect and clear those restricted articles.

Florida has 10 ports of entry, but only two of those ports—Miami and Orlando—have plant inspection stations. Many importers use shipping companies that go into Port Everglades, FL, but not Miami, FL. These importers would like to offer nursery stock for importation at the Port Everglades, FL, port of entry, which is located in Fort Lauderdale, FL. Many of the ships from Central and South America that do not go into Miami, FL, are berthed in Fort Lauderdale, FL.

The U.S. Department of Agriculture considers Fort Lauderdale and Miami, FL, to be one contiguous metropolitan area within a 25-mile radius. We propose to designate Port Everglades, FL, as a port that may accept restricted articles that require a written permit. Because Port Everglades does not have a special inspection and treatment facility, it cannot provide the actual inspection. However, because of its proximity to the port of Miami, which has a plant inspection station, we would allow those restricted articles to be moved by ground transportation and under U.S. Customs bond to the Miami, FL, plant inspection station for clearance. Requiring movement under U.S. Customs bond would help ensure that those restricted articles are moved directly to the Miami, FL, plant inspection station as required. This U.S. Customs bond would require that anyone moving those restricted articles or his or her agent, usually a licensed and bonded Custom House Broker, guarantee that the restricted articles move as required or face an economic penalty.

Therefore, we are proposing to amend § 319.37-14(b) to remove the separate listing for Port Everglades and to add its Fort Lauderdale address to the listing for the port of Miami. In a note following the Fort Lauderdale address, we would also add a requirement that restricted articles that require a written permit must be moved by ground transportation and under U.S. Customs bond from Fort Lauderdale to the Miami plant inspection station.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this proposed rule would have an effect on the economy of less than $100

million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rule would allow restricted articles that require a written permit, for example, nursery stock, to be offered for importation into the United States at the Port Everglades, FL, port of entry. Based upon requests from importers, we anticipate that about two to three containers of nursery stock per month would arrive at the Port Everglades, FL, port of entry, predominantly from Costa Rica and Guatemala.

Now, about 40 to 50 companies import nursery stock into the United States. Thirty to 40 of these companies employ 100 or fewer people, making them small entities by the Small Business Administration's size criteria. Three of these small entities would ship most of the nursery stock that would arrive at Port Everglades, FL.

Based upon U.S. Department of Agriculture information, we estimate that making this rule change would result in no more than five additional import companies shipping nursery stock to Port Everglades, FL. This estimate is based upon the assumption that most importers who now ship nursery stock directly to the Port of Miami would continue to do so because it is more feasible and cost effective. All of these companies would be considered small entities.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements.

Accordingly, 7 CFR part 319 would be amended as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 would be revised to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, 450; 21 U.S.C. 136 and 136a; 7 CFR 2.17, 2.51, and 371.2(c).

2. The authority citation for "Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products" would be removed.

§ 319.37–14 [Amended]

3. In § 319.37–14, paragraph (b), under "List of Ports of Entry", the entry for Florida would be amended by removing "Port Everglades" and the address underneath it, and by adding "Amman Building, room 305, 611 Eisenhower Boulevard, P.O. Box 13033, Fort Lauderdale, FL 33316.

"(Note: Restricted articles required to be imported under a written permit pursuant to § 319.37–3(a) (1) through (6) of this subpart must be moved by ground transportation and under U.S. Customs bond to the Miami Plant Inspection Station at the above address.)" as a third entry under "*Miami".

Done in Washington, DC, this 22nd day of October 1993.

Patricia Jensen,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–26569 Filed 10–27–93; 8:45 am]

BILLING CODE 3410–34–P

Agricultural Marketing Service

7 CFR Parts 1005, 1007, and 1011

[DA–93–29]

Milk in the Tennessee Valley, Georgia, and Carolina Marketing Areas; Proposed Suspension of Certain Provisions of the Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend for the months of November 1993 through October 1994 provisions in each of the three orders to permit a distributing plant that is located in the Tennessee Valley marketing area to be regulated under the Tennessee Valley order rather than the Carolina order where it has the greater portion of its Class I sales. The suspension was requested by Land-O-Sun Dairies, Inc., which operates a distributing plant at Kingsport, Tennessee. In recent months, the uniform price under the Carolina order has been significantly lower than the uniform price under the Tennessee Valley order, causing financial hardship for the Kingsport plant in maintaining its supply of milk.

DATES: Comments are due no later than November 4, 1993.

ADDRESSES: Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 690–1932.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. In fact, this action would lessen the regulatory burden on a small entity by removing a pricing disparity that is causing financial hardship for a distributing plant that is located in the marketing area of one order but is regulated under another order.

This proposed rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This proposed suspension has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have a retroactive effect. If adopted, this proposed action will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rule.

The Agricultural Marketing Agreement Act, as amended (7 U.S.C. 601–674) ("the Act"), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provisions of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Notice is hereby given that, pursuant to the provisions of the Act, the suspension of the following provisions of the orders regulating the handling of milk in the Tennessee Valley, Carolina, and Georgia marketing areas is being considered for the months of November 1993 through October 1994:

1. In § 1005.7(d)(3) of the Carolina order, the words "from", "there", "a greater quantity of route disposition, except filled milk, during the month", and "than in this marketing area".

2. In § 1007.7(e)(3) of the Georgia order, the words ", except as provided in paragraph (e)(4) of this section,";

3. In § 1007.7 of the Georgia order, paragraph (e)(4); and

4. In § 1011.7 of the Tennessee Valley order, paragraph (d)(3).

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, by the 7th day after publication of this notice in the **Federal Register**.

The comment period is limited to seven days so that the suspension, if found appropriate, can be implemented quickly and thereby minimize further financial hardship to the Land-O-Sun Dairies, Inc.

The comments that are sent will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would allow a distributing plant that is located within the Tennessee Valley marketing area and that meets all of the pooling standards of the Tennessee Valley order to be regulated under that order despite the plant having greater sales in the Carolina marketing area. In recent months, the uniform price to producers at Kingsport, Tennessee, under the Tennessee Valley order has been significantly higher than the uniform price at that location under the Carolina order. For example, in July and August, the Tennessee Valley uniform price at Kingsport was 32 cents and 29 cents, respectively, higher than the Carolina uniform price at Kingsport. Although the Class I price at Kingsport is identical under both of these orders, the Tennessee Valley order's higher Class I utilization has resulted in a higher uniform price at Kingsport during nearly every month for the past two years.

The difference in uniform prices at Kingsport requires Land-O-Sun Dairies to pay significant over-order prices to retain its milk supply in competition with nearby handlers regulated under the Tennessee Valley order. Land-O-Sun has indicated that it cannot continue to pay these over-order prices without jeopardizing the existence of its business.

In its request, Land-O-Sun requested an indefinite suspension period, pending the outcome of a hearing to consider a permanent solution to this problem. A one-year suspension period should allow adequate time to schedule a hearing on this matter or resolve this problem on a more permanent basis in another way.

The paragraph proposed to be suspended from the Georgia order is merely a conforming change to preserve the status quo between the Carolina and Georgia orders if provisions in the Tennessee Valley and Carolina orders are suspended. In particular, this change is necessary to continue the regulation of a Greenville, South Carolina, plant under the Georgia order. Without the suspension, the plant would become regulated under the Carolina order.

List of Subjects in 7 CFR Parts 1005, 1007, and 1011

Milk marketing orders.

The authority citation for 7 CFR parts 1005, 1007, and 1011 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Dated: October 22, 1993.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 93–26526 Filed 10–27–93; 8:45 am]

BILLING CODE 3410–02–P

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 93–103–2]

Change in Disease Status of Belgium Because of Rinderpest and Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule; reopening and extension of comment period.

SUMMARY: We are extending the time period for the public to comment on a proposal to declare Belgium free of rinderpest and foot-and-mouth disease. This proposed revision would remove the prohibition on the importation into the United States, from Belgium, of ruminants and fresh, chilled, and frozen meat from ruminants, and would relieve restrictions on the importation, from Belgium, of milk and milk products from ruminants. Reopening and extending the comment period will give interested persons additional time to prepare and submit comments.

DATES: Consideration will be given only to comments received on or before November 29, 1993.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 93–103–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are encouraged to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Marolo Garcia, Senior Staff Veterinarian, Import-Export Animals Staff, National Center for Import and Export, Veterinary Services, APHIS, USDA, room 757, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7830.

SUPPLEMENTARY INFORMATION:

Background

On September 13, 1993, we published in the **Federal Register** (58 FR 47834–47836, Docket No. 93–103–1) a proposal to declare Belgium free of rinderpest and foot-and-mouth disease. We requested that interested persons comment on the proposal on or before

October 13, 1993. We received a request from a national dairy association to reopen and extend the comment period so that its members would have ample time to prepare and submit comments. In response to this request, we are reopening and extending the comment period for the proposed rule (Docket No. 93-103-1). We will consider all comments received following the date of publication of the proposed rule and on or before the new comment period closing date.

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, and 134f; 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 22nd day of October 1993.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 93-26572 Filed 10-27-93; 8:45 am]

BILLING CODE 3410-34-P

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1301

Privacy Act Regulations; Proposed Rule

AGENCY: Tennessee Valley Authority.

ACTION: Proposed rule.

SUMMARY: The Tennessee Valley Authority (TVA) proposes to amend its regulations implementing the Privacy Act of 1974 (the Act), 5 U.S.C. 552a. These amendments are needed to modify existing TVA regulations (18 CFR 1301.24) exempting the system of records known as OIG Investigative Records—TVA (TVA-31) from certain provisions of the Act and corresponding agency regulations.

DATES: Comments must be received on or before November 29, 1993.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Mark R. Winter, TVA, 1101 Market St., Chattanooga, TN 37402-2801. As a convenience to commenters, TVA will accept public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (615) 751-2902. Receipt of FAX transmittals will not be acknowledged.

FOR FURTHER INFORMATION CONTACT: Mark R. Winter, (615) 751-2523.

SUPPLEMENTARY INFORMATION: The proposed amendments would add exemptions authorized by the Act, 5 U.S.C. 552a(j)(2), to those that are currently in place for the OIG Investigative Records—TVA system of records under 5 U.S.C. 552a(k)(2). Under subsection (j)(2) of the Act, TVA, through rulemaking, may exempt those systems of records maintained by a component of TVA that performs as its principal function any activity pertaining to the enforcement of criminal laws from certain provisions of the Act, if the system of records is used for certain law enforcement purposes.

The Office of Inspector General (OIG) is a component of TVA that performs as one of its principal functions investigations into violations of criminal law in connection with TVA's programs and operations, pursuant to the Inspector General Act of 1978, as amended, 5 U.S.C. App. 3, and the OIG Investigative Records system of records falls within the scope of subsection (j)(2); i.e., information compiled for the purpose of criminal investigation, reports relating to any stage of the enforcement process, and information compiled for the identification of individual criminals.

The additional proposed (j)(2) exemptions for criminal law enforcement records would remove restrictions on the manner in which information may be collected and the type of information that may be collected by OIG investigators in the course of a criminal investigation, would limit certain notice requirements, and would exempt the system of records from civil remedies for violations of the Act. These additional exemptions are necessary primarily to avoid premature disclosure of sensitive information, including, but not limited to, the existence of a criminal investigation, that may compromise or impede the investigation.

A more complete explanation of each proposed exemption follows, as required by the Act.

TVA proposes the following changes to the current exemptions contained in 18 CFR 1301.24.

Exemptions Pursuant to (j)(2)

TVA has determined that the OIG Investigative Records should be exempt from the following provisions of the Privacy Act and corresponding agency regulations, in addition to the exemptions already in place. These exemptions are necessary and appropriate to maintain the integrity and confidentiality of criminal investigations.

TVA proposes use of the (j)(2) exemption for the following reasons:

(a) 5 U.S.C. 552a(c)(3) requires an agency to make the accounting of each disclosure of records available to the individual named in the record at his/her request. This accounting must state the date, nature and purpose of each disclosure of a record and the name and address of the recipient. Accounting for each disclosure could alert the subject of an investigation to the existence and nature of the investigation and reveal investigative or prosecutive interest by other agencies, particularly in a joint-investigation situation. This could seriously impede or compromise the investigation and case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate with the investigators; lead to suppression, alteration, fabrication, or destruction of evidence; and endanger the physical safety of confidential sources, witnesses, law enforcement personnel and their families.

(b) 5 U.S.C. 552a(c)(4) requires an agency to inform outside parties of correction of and notation of disputes about information in a system in accordance with subsection (d) of the Privacy Act. Since this system of records is already exempted from the access provisions of subsection (d) of the Privacy Act, this section is not properly applicable.

(c) 5 U.S.C. 552a (d) and (f) require an agency to provide access to records, make corrections and amendments to records, and notify individuals of the existence of records upon their request. Providing individuals with access to records of an investigation and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing the access normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate with investigators; lead to suppression, alteration, fabrication, or destruction of evidence; endanger the physical safety of confidential sources, witnesses, law enforcement personnel and their families; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach to satisfy any Government claims growing out of the investigation.

(d) 5 U.S.C. 552a(e)(1) requires an agency to maintain in agency records only "relevant and necessary" information about an individual. This provision is inappropriate for investigations, because it is not always possible to detect the relevance or necessity of each piece of information in

the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear. In other cases, what may appear to be a relevant and necessary piece of information may become irrelevant in light of further investigation.

In addition, during the course of an investigation, the investigator may obtain information that relates primarily to matters under the investigative jurisdiction of another agency (e.g., the fraudulent use of Social Security numbers), and that information may not be reasonably segregated. In the interest of effective law enforcement, OIG investigators should retain this information, since it can aid in establishing patterns of criminal activity and can provide valuable leads for Federal and other law enforcement agencies.

(e) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual, when the information may result in adverse determinations about an individual's rights, benefits and privileges under Federal programs. The general rule that information be collected "to the greatest extent practicable" from the target individual is not appropriate in investigations. OIG investigators should be authorized to use their professional judgment as to the appropriate sources and timing of an investigation. Often it is necessary to conduct an investigation so that the target does not suspect that he or she is being investigated. The requirement to obtain the information from the targeted individual may put the suspect on notice of the investigation and thereby thwart the investigation by enabling the suspect to destroy evidence and take other action that would impede the investigation. This requirement may also in some cases preclude an OIG investigator from gathering information and evidence before interviewing an investigative target in order to maximize the value of the interview by confronting the target with the evidence or information. Moreover, in certain circumstances the subject of an investigation cannot be required to provide information to investigators and information must be collected from other sources. Furthermore, it is often necessary to collect information from sources other than the subject of the investigation to verify the accuracy of the evidence collected.

In addition, the statutory term "to the greatest extent practicable" is a subjective standard, and it is impossible adequately to define the term so that individual OIG investigators can consistently apply it to the many fact patterns presented in OIG investigations.

(f) 5 U.S.C. 552a(e)(3) requires an agency to inform each person whom it asks to supply information, on a form that can be retained by the person, of the authority under which the information is sought and whether disclosure is mandatory or voluntary; of the principal purpose for which the information is intended to be used; of the routine uses which may be made of the information; and of the effects on the person, if any, of not providing all or any part of the requested information. The application of this provision could provide the subject of an investigation with substantial information about the nature of that investigation that could interfere with the investigation. Moreover, providing such a notice to the subject of an investigation could seriously impede or compromise an undercover investigation by revealing its existence and could endanger the physical safety of confidential sources, witnesses, and investigators by revealing their identities.

(g) 5 U.S.C. 552a(e)(4) (G) and (H) require an agency to publish a **Federal Register** notice concerning its procedures for notifying an individual at his/her request, if the system of records contains a record pertaining to him/her, how to gain access to such a record and how to contest its content. Since these systems of records are being exempted from subsection (f) of the Act, concerning agency rules, and subsection (d) of the Act, concerning access to records, these requirements are inapplicable to the extent that these systems of records will be exempted from these subsections. Although the systems would be exempt from these requirements, OIG has published information concerning its notification, access, and contest procedures because, under certain circumstances, OIG could decide it is appropriate for an individual to have access to all or a portion of his/her records in these systems of records.

(h) 5 U.S.C. 552a(e)(4)(I) requires an agency to publish notice of the categories of sources of records in the system of records. To the extent that this provision is construed to require more detailed disclosure that the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information, to protect privacy and physical safety of witnesses and informants, and to avoid the disclosure of investigative techniques and procedures. OIG will, nevertheless, continue to publish such a notice in broad generic terms as is its current practice.

(i) 5 U.S.C. 552a(e)(5) requires an agency to maintain its records with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in making any determination about the individual. Much the same rationale is applicable to this proposed exemption as that set out previously in item (d) (duty to maintain in agency records only "relevant and necessary" information about an individual). While the OIG makes every effort to maintain records that are accurate, relevant, timely, and complete, it is not always possible in an investigation to determine with certainty that all the information collected is accurate, relevant, timely, and complete. During a thorough investigation, a trained investigator would be expected to collect allegations, conflicting information, and information that may not be based upon the personal knowledge of the provider. At the point of determination by OIG to refer the matter to a prosecutive agency, for example, that information would be in the system of records, and it may not be possible until further investigation is conducted, or indeed in many cases until after a trial (if at all), to determine the accuracy, relevance, and completeness of some information. This requirement would inhibit the ability of trained investigators to exercise professional judgment in conducting a thorough investigation. Moreover, fairness to affected individuals is assured by the due process they are accorded in any trial or other proceeding resulting from the OIG investigation.

(j) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when any record on such individual is made available under compulsory legal process when such process becomes a matter of public record. Compliance with this provision could prematurely reveal and compromise an ongoing criminal investigation to the target of the investigation and reveal techniques, procedures, or evidence.

(k) 5 U.S.C. 552a(g) provides for civil remedies if an agency fails to comply with the requirements concerning access to records under subsections (d) (1) and (3) of the Act; maintenance of records under subsection (e)(5) of the Act; and any other provision of the Act, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual. Allowing civil

lawsuits for alleged Privacy Act violations by OIG investigators would compromise OIG investigations by subjecting the sensitive and confidential information in the OIG Investigation Records to the possibility of inappropriate disclosure under the liberal civil discovery rules. That discovery may reveal confidential sources, the identity of informants, and investigative procedures and techniques, to the detriment of the particular criminal investigation as well as other investigations conducted by OIG.

The pendency of such a suit would have a chilling effect on investigations, given the possibility of discovery of the contents of the investigative case file, and a Privacy Act lawsuit could therefore become a ready strategic weapon used to impede OIG investigations. Furthermore, since, under the current and proposed regulations, the system would be exempt from many of the Act's requirements, it is unnecessary and contradictory to provide for civil remedies from violations of those provisions in particular.

This proposed rule has been reviewed under Executive Order No. 12291 and has been determined not to be a "major rule" since it will not have an annual effect on the economy of $100 million or more.

In addition, it has been determined that this proposed rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 18 CFR Part 1301

Administrative practice and procedure, Freedom of Information, Privacy Act, Sunshine Act.

For the reasons set forth in the preamble, it is proposed to amend 18 CFR, chapter XIII, part 1301, as follows:

PART 1301—PROCEDURES

1. The authority citation for part 1301 continues to read as follows:

Authority: 16 U.S.C. 831–831dd, 5 U.S.C. 552.

§ 1301.24 [Amended]

2. Section 1301.24(d) is revised to read as follows:

* * * * *

(d) The TVA system OIG Investigative Records is exempt from subsections (c)(3), (d), (e)(1), (e)(4), (G), (H), and (I) and (f) of 5 U.S.C. 552a (section 3 of the Privacy Act) and corresponding sections of these rules pursuant to 5 U.S.C. 552a(k)(2). The TVA system OIG Investigative Records is exempt from subsections (c)(3), (d), (e)(1), (e)(2), (e)(3), (e)(4) (G), (H), and (I) and (e)(5), (e)(8), and (g) pursuant to 5 U.S.C. 552a(j)(2). This system is exempt because application of these provisions might alert investigation subjects to the existence or scope of investigations, lead to suppression, alteration, fabrication, or destruction of evidence, disclose investigative techniques or procedures, reduce the cooperativeness or safety of witnesses, or otherwise impair investigations.

John J. O'Donnell,

Vice President, Facilities Services.

[FR Doc. 93–26564 Filed 10–27–93; 8:45 am]

BILLING CODE 8120–08–M

DEPARTMENT OF STATE

Bureau of Administration

22 CFR Part 171

[Public Notice 1893]

Privacy Act of 1974; Implementation

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State proposes to amend its regulations by exempting portions of an altered record system from certain provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a). Certain portions of the records of the Office of the Assistant Legal Adviser for International Claims and Investment Disputes (STATE–54) are exempted from 5 U.S.C. secs. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

DATES: Comments must be submitted on or before December 27, 1993.

ADDRESSES: Written comments may be mailed or delivered to Margaret P. Grafeld, Chief, Privacy, Plans and Appeals Division, Office of Freedom of Information, Privacy, and Classification Review, room 1239, Department of State, 2201 C Street, NW., Washington, DC 20520–1239.

SUPPLEMENTARY INFORMATION: A notice of a proposal to alter a system of records is published elsewhere in this **Federal Register**. This system principally supports the Office of the Assistant Legal Adviser for International Claims and Investment Disputes role in identifying and processing common legal issues in the claims of U.S. nationals or residents, including businesses, with claims against foreign governments, foreign nationals with claims against the United States, and claims of U.S. citizens pursuant to 22 U.S.C. sec. 1971, *et seq.* ("Fisherman's Protective Act"); 22 U.S.C. 2669(f) ("The Act of August 1956"); 28 U.S.C. 1346, 2671–80 ("The Federal Tort Claim Act") and 50 U.S.C. 1701 note. The records of the Office of the Assistant Legal Adviser for International Claims and Investment Disputes contain information relating to claims described above to facilitate processing such claims and may be used by other government agencies such as the U.S. Departments of Justice, Treasury, Commerce, Defense and the Office of the United States Trade Representative, as well as relevant international tribunals and foreign governments.

Due to the nature of the documentation collected in the course of identifying and processing the claims described above, it may be properly classified in accordance with Executive Order 12356 and, accordingly, it may be necessary in some instances to withhold certain information from the public in the interest of national security.

List of Subjects in 22 CFR Part 171

Privacy

The proposed amendments to 22 CFR part 171 covering certain records in STATE–54 is as follows:

PART 171—[AMENDED]

1. The authority citation for part 171 continues to read as follows:

Authority: The Freedom of Information Act, 5 U.S.C. 552; The Privacy Act, 5 U.S.C. 552a; The Administrative Procedure Act, 5 U.S.C. 551, et seq.; The Ethics in Government Act; 5 U.S.C. App. 201; Executive Order 12356, 47 FR 14874; and Executive Order 12600, 52 FR 23781.

§ 171.32 [Amended]

2. In § 171.32, paragraph (j)(1) will be amended by adding "Records of the Office of the Assistant Legal Adviser for International Claims and Investment Disputes STATE–54", after "Records of the Inspector General and Automated Individual Cross-Reference System. STATE–53".

Dated: October 20, 1993.

Patrick F. Kennedy,

Assistant Secretary for the Bureau of Administration.

[FR Doc. 93–26555 Filed 10–27–93; 8:45 am]

BILLING CODE 4710–24–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 93–78; Notice 01]

RIN 2127–AE96

Federal Motor Vehicle Safety Standards; Designated Seating Position

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: On January 15, 1993, NHTSA published a final rule amending Standard No. 222, *School Bus Passenger Seating and Crash Protection*, to specify performance requirements for wheelchair securement devices and wheelchair occupant restraint systems. In the preamble, the agency expressed concern that some vehicles would be classified as multipurpose passenger vehicles instead of school buses because the installation of wheelchair securement locations in place of bench seats reduced their seating capacity. (To be classified as a school bus, a vehicle's seating capacity must be 11 or more, including the driver.) Classifying these vehicles as multipurpose passenger vehicles would mean that they would not be required to be equipped with all of the safety features of a school bus.

To address this matter, this notice proposes to amend the definition of *designated seating position* to specify that, for the sole purpose of determining vehicle classification, any located intended for securement of an occupied wheelchair during vehicle operation would be counted as four designated seating positions. Four is the number of seating positions typically removed when a single securement location is installed.

This amendment would ensure that if a vehicle would have been classified as a school bus had it been equipped with bench seats, it would still be regarded as a school bus if it were instead designed to transport students in wheelchairs. By requiring these vehicles to comply with all school bus standards, NHTSA believes that all student users of wheelchairs transported in those vehicles would be provided the same level of occupant protection as students transported in other school buses.

DATES: Comments must be received by December 13, 1993.

If adopted, the proposed amendments would become effective January 17, 1994 if the final rule were published at least 30 days before that date. Otherwise, the proposed amendments would become effective 30 days after publication of the final rule.

ADDRESSES: Comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC, 20590. (Docket Room hours are 9:30 a.m.–4 p.m., Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: Charles Hott, NRM–15, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC, 20590. Telephone: (202) 366–0247.

SUPPLEMENTARY INFORMATION: On January 15, 1993, NHTSA published a final rule amending Standard No. 222, *School Bus Passenger Seating and Crash Protection* to require school buses designed to transport persons in wheelchairs to be equipped with wheelchair securement devices and occupant restraint systems meeting specified performance requirements (58 FR 4586). That final rule is intended to complement existing provisions in Standard No. 222 specifying occupant protection requirements for school bus passenger seating and restraining barriers and to provide a level of occupant protection for students in wheelchairs as comparable as practicable to that currently provide to students able to use standard bench seats.

In the notice of proposed rulemaking for the January 1993 final rule, NHTSA discussed the Eleventh National Conference on School Transportation's effort to offset the classification of some vehicles as multipurpose passenger vehicles instead of school buses as a result of the reduction in their seating capacity due to the installation of wheelchair securement locations in place of bench seats. The standard requires compliance with all school bus standards by any vehicle which would have been classified as a school bus if equipped with regular bench seats (i.e., which has a capacity of 11 or more, including the driver), and which is instead classified as a multipurpose passenger vehicle (MPV) when wheelchair restraints are installed in place of bench seats (i.e., has a capacity of 10 or less) (56 FR 48140, 48144; September 24, 1991). In the preamble to the final rule, the agency expressed its continuing concern that the classification of these vehicles as MPVs would have the result of not providing students in these vehicles with all the safety features of a school bus. To focus attention on this issue, the agency announced its intention to publish a proposal concerning MPV's used to transport students (58 FR 4586, 4592).

Proposal

NHTSA has tentatively concluded that vehicles used to transport students in wheelchairs should be required to comply with all standards applicable to school buses, if the vehicle would have been classified as a school bus had it been equipped with bench seats. The safety record of school transportation has been, and continues to be, one of the safest forms of transportation. This is in part because these vehicles have safety standards that address the intended use of the vehicle. Every year approximately 370,000 public school buses travel approximately 3.5 billion miles to transport 22 million children to and from school and related activities. Since NHTSA began tracking all traffic fatalities in 1975, an average of 16 school bus occupants per year have sustained fatal injuries. While each of these fatalities is tragic, the number of school bus occupant fatalities is small compared to the number of child fatalities in other types of vehicles. For example, in 1991 there were 5,739 deaths among children aged five to 18 in vehicles other than school buses.

To implement this requirement, NHTSA has developed a proposal under which a wheelchair location would be treated as more than one designated seating position for the purposes of vehicle classification. The number of designating seating positions would be based on the number of bench seating positions typically displaced by the installation of a wheelchair securement location instead of bench seats.

More specifically, NHTSA is proposing to amend the definition of *designated seating position* at 49 CFR 571.3 to add a sentence specifying that, for the sole purpose of determining vehicle classification, any location intended for securement of an occupied wheelchair during vehicle operation would be counted as four designated seating positions. By limiting this amendment to the purpose of determining vehicle classification, other regulations that also reference vehicle occupant capacity (e.g., determination of gross vehicle weight rating (GVWR) or emergency exit area) would not be affected.

NHTSA arrived at the four-to-one ratio based upon the comments submitted by the Washington Superintendent of Public Instruction (Washington) in response to the proposal leading to the January 15 final rule (Docket 90–05–N03–051).

Washington submitted information on "how many wheelchairs can be installed on a bus when a specified number of seats have been removed." By "seats," Washington meant bench seats with two designated seating positions. The average ratio of seating positions on bench seats to wheelchairs is four-to-one, if the wheelchair is forward-facing, or three-to-one, if the wheelchair is side-facing.

NHTSA has tentatively decided to use the ratio based on forward-facing wheelchairs for two reasons. First, nearly every other national and international organization studying this issue has concluded that forward-facing wheelchair locations are inherently safer, and that wheelchairs and the human body are better capable of surviving a frontal crash in a frontal orientation. Second, the January 15 final rule mandates a forward-facing orientation for wheelchair securement devices installed in school buses.

The consequence under the Federal motor vehicle safety standards of treating the vehicles in question as school buses instead of MPVs may be seen from examining the following partial list of standards, and the differences between their requirements for school buses and MPVs:

- Standard No. 105, *Hydraulic Brake Systems:*

School buses: Different test procedure than MPVs.

MPVs: MPVs with a GVW over 10,000 pounds do not have to comply with the parking brake, fade and recovery, and water recovery requirements of the standard.

- Standard No. 108, *Lamps, Reflective Devices and Associated Equipment:*

School buses: Red and amber signal lamps that indicate a school bus is loading or unloading passengers.

MPVs: Normal headlights, stop lights, and turn signal lights.

- Standard No. 111, *Rearview Mirrors:*

School buses: Two outside rearview mirrors and an outside cross view mirror. For school buses manufactured on or after December 2, 1993, two outside rearview mirror systems on both the right and left side of the bus that provide specified field-of-view. Mirror system A is a mirror of unit magnification and system B is a convex cross view mirror.

MPVs: Two outside rearview mirrors, or, for MPVs with a GVWR of 10,000 pounds or less, one inside rearview mirror and two outside rearview mirrors.

- Standard No. 131, *School Bus Pedestrian Safety Devices:*

School buses: Stop signal arm to warn motorists that a school bus is loading or unloading passengers.

MPVs: No requirement.

- Standard No. 208, *Occupant Crash Protection:*

School buses: A lap/shoulder belt at the driver's seating position and, for school buses with a GVWR of 10,000 pounds or less, lap or lap/shoulder belts at all other seating positions.

MPVs: For MPVs with a GVWR of 10,000 pounds or less, a lap/shoulder belt at all outboard seating positions and at least a lap belt at all other seating positions. For MPVs with a GVWR of more than 10,000 pounds, at least a lap belt at every seating position.

- Standard No. 216, *Roof Crush Resistance:*

School buses: Not subject to this standard, but are subject to Standard No. 220.

MPVs: MPVs with a GVWR of 6,000 pounds or less manufactured on or after September 1, 1994 must withstand a force of 1½ times the unloaded vehicles weight applied to the vehicle roof.

- Standard No. 217, *Bus Window Retention and Release:*

School buses: Either one rear emergency door or one emergency door on the left side of the bus and a pushout rear window. School buses manufactured on or after May 2, 1994 may be required to have additional emergency exits, depending on the capacity of the vehicle.

MPVs: No requirement.

- Standard No. 220, *School Bus Rollover Protection:*

School buses: Must withstand a force of 1½ times the unloaded vehicle's weight applied to the vehicle roof.

MPVs: Not subject to this standard, but are subject to Standard No. 216.

- Standard No. 221, *School Bus Body Joint Strength:*

School buses: Joints must comply with minimum strength requirements.

MPVs: No requirement.

- Standard No. 222, *School Bus Body Passenger Seating and Crash Protection:*

School buses: Occupant protection through a concept call "compartmentalization"—strong, well-padded, well-anchored, high-backed, evenly spaced seats. For school buses manufactured on or after January 17, 1994 designed to transport persons in wheelchairs, wheelchair securement devices and occupant restraint systems.

MPVs: No requirement, but Standard No. 207, *Seating.*

Systems, does test the strength of the seats.

- Standard No. 301, *Fuel System Integrity:*

School Buses: Must comply with a 30 mph moving barrier crash test at any angle.

MPVs: MPVs with a GVWR over 10,000 pounds do not have to comply with the standard.

The requirements of the MPV standards are not always less than those for school buses. As may be seen from the above list, they are different and occasionally more stringent. These differences in requirements reflect the differences in the expected uses of the two groups of vehicles. The school bus standards are appropriate for vehicles built for a specific purpose; transporting children to and from school or related events. The MPV standards are appropriate for vehicles built for the general purpose of operating in normal traffic situations and occasional off-road operation. Subjecting a vehicle to standards specifically tailored to the uses of a particular vehicle class is desirable because those standards generally offer more safety benefits than standards that are not so tailored.

Cost

NHTSA believes that most states require the use of vehicles meeting the specifications for school buses for transportation of students. Therefore, NHTSA believes that this proposal would eliminate the cost to manufacturers of meeting both the standards for MPVs, as required by Federal law, and the standards for school buses, as required by State law. Once this rule is final, manufacturers could design for compliance with the school bus standards only.

NHTSA estimates that there are approximately 520 vehicles that would be affected by this proposal. This estimate is based on sales data indicating that 15.2 percent of the 38,000 school buses sold annually are small buses, and that about 9 percent of small school buses are lift equipped. While not all of these vehicles might be reclassified as an MPV when equipped with wheelchair positions, there might be some vehicles outside this class that would be affected. Therefore, NHTSA believes that 520 is a good estimate of the size of the affected vehicle population.

In comparing the differences between the standards applicable to school buses and those applicable to MPVs, NHTSA believes that while there are a few standards with different test procedures, a school bus could meet all of the MPV standards with the exception of the requirements for occupant restraints.

A vehicle with a GVWR of 10,000 pounds or less, would be required to have a lap/shoulder belt at the driver's

position and a lap belt at all other positions if a school bus. If an MPV, that vehicle is required to have lap/shoulder belts at all outboard seating positions, and a lap belt at all other positions. If the MPV has a GVWR of 8,500 pounds or less, and an unloaded vehicle weight of 5,500 pounds or less, it must have a dynamically tested lap/shoulder belt at the driver's position. An automatic restraint requirement for this seating position will be phased in beginning with model year 1995 vehicles, and an air bag will be required for model year 1999 vehicles. Thus, the cost differences in this size range result from: (1) Lap/shoulder belts at rear outboard seating positions, and (2) different occupant restraints for the driver's seating position in vehicles with a GVWR of 8,500 pounds or less.

NHTSA estimates that the maximum affected rear outboard seating positions is six, assuming a vehicle with 10 seating positions has two 3-person bench seats (4 outboard seats), 2 single seats, a wheelchair position, and a driver's seat. The estimated difference in cost between a lap/shoulder belt and lap belt is $15, or $90 per vehicle.

For the driver's seating position, the most expensive cost is a vehicle equipped with an air bag. The estimated cost for a driver's air bag is $330 to $400. If the vehicle has a right front passenger seat, the estimated cost for air bags at both front seating positions is $430 to $520. Thus, NHTSA estimates a cost savings for vehicles with a GVWR of 10,000 pounds or less of $390 to $580 per vehicle.

A vehicle with a GVWR more than 10,000 pounds is required to have a lap belt at the driver's position only if a school bus. If an MPV, that vehicle is required to have lap belts at all seating positions. Thus, the cost savings for a vehicle with 8 rear seating positions would be between $69.20 to $89.60 per vehicle. NHTSA estimates a cost savings between $35,984 (if all 520 vehicles have a GVWR of more than 10,000 pounds and lap belts without retractors) and $301,600 (if all 520 vehicles have a GVWR of 8,500 pounds or less and full front air bags).

Another possible source of costs would be if a vehicle were changed from an MPV to a school bus. While some differences in the standards for the two types of vehicles should not result in additional costs, NHTSA estimates a maximum additional cost to comply with some school bus standards of $2,591 per vehicle (or $1,347,320 if all 520 vehicles are affected), as follows:

- Standard No. 108: Required red and amber school bus signal lamps are estimated to cost $140.
- Standard No. 111: School bus mirrors are estimated to cost between $22 and $52.
- Standard No. 131: Stop signal arms are estimated to cost $205.
- Standard No. 220: Only MPV's with a GVWR of 6,000 pounds or less are subject to Standard No. 216, thus vehicles with a higher GVWR will incur some costs. NHTSA's analysis of the cost of an MPV to comply with Standard No. 216 ranged from $22 to $1,549. NHTSA believes these costs are indicative of the cost to comply with Standard No. 220.
- Standard No. 221: Cost of rivets and glue to comply with requirements estimated to cost $365.
- Standard No. 222: Seats are estimated to cost an additional $35 each, or $280 for a vehicle with 8 rear seating positions.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impacts of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This action has been determined to be not "significant" under either. The agency has determined that the economic effects of the proposed amendment are so minimal that a full regulatory evaluation is not required. As explained above NHTSA estimates range from $301,600 in savings to $1,347,320 in costs.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this rulemaking action under the Regulatory Flexibility Act. I certify that the proposed amendments would not have a significant economic impact on a substantial number of small entities. As explained above, NHTSA does not expect a significant economic impact as a result of this proposed rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), this agency notes that there are no requirements for information collection associated with this proposed amendment.

National Environmental Policy Act

NHTSA has also analyzed this rulemaking action for the purpose of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

Executive Order 12612 (Federalism)

Finally, NHTSA has analyzed this proposal in accordance with the principles and criteria contained in E.O. 12612, and has determined that this proposal does not have significant federalism implications warranting the preparation of a Federalism Assessment.

Civil Justice Reform

This proposed rule would not have any retroactive effect. Under section 103(d) of the National Traffic and Motor Vehicle Safety Act (Safety Act; 15 U.S.C. 1392(d)), whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. Section 105 of the Safety Act (15 U.S.C. 1394) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Submission of Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket

at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, it is proposed that 49 CFR part 571 be amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 of title 49 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407, delegation of authority at 49 CFR 1.50.

2. Section 571.3(b) would be amended by revising the definition of *designated seating position* to read as follows:

§ 571.3 Definitions.

* * * * *

(b) * * *

Designated seating position means any plan view location capable of accommodating a person at least as large as a 5th percentile adult female, if the overall seat configuration and design and vehicle design is such that the position is likely to be used as a seating position while the vehicle is in motion, except for auxiliary seating accommodations such as temporary or folding jump seats. Any bench or split-bench seat in a passenger car, truck or multipurpose passenger vehicle with a GVWR less than 10,000 pounds, having greater than 50 inches of hip room (measured in accordance with SAE Standard J1100(a) shall have not less than three designated seating positions, unless the seat design or vehicle design is such that the center position cannot be used for seating. For the sole purpose of determining the classification of any vehicle sold, or introduced in interstate commerce, for purposes that include carrying students to and from school or related events, any location in such vehicle intended for securement of an occupied wheelchair during vehicle operation is regarded as four designated seating positions.

* * * * *

Issued on October 22, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93-26546 Filed 10-27-93; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1063

[Ex Parte No. MC-95 (Sub-No. 7)]

Petition To Amend 49 CFR Part 1063—Adequacy of Intercity Motor Common Carrier Passenger Service

AGENCY: Interstate Commerce Commission.

ACTION: Request for comment; extension of comment due date.

SUMMARY: By decision served September 30, 1993 (58 FR 51603, October 4, 1993), the Commission requested comments on proposed amendments to regulations governing the adequacy of intercity bus service. By letter filed October 15, 1993, industry trade associations (Petitioners) request a 30-day extension to December 3, 1993 to file comments. Petitioners state additional time is needed to seek information from their members regarding public availability of their bus schedules. Greyhound Lines, Inc. (Greyhound) requests additional time to evaluate the effects of its computer reservations system on interline traffic. Counsel for Petitioners also requests the extension due to the press of business. Petitioner states that counsel for Greyhound has been contacted and Greyhound does not object to the extension request.

DATES: Comments must be received by December 3, 1993.

ADDRESSES: Send an original and 10 copies of comments referring to Ex Parte No. MC-95 (Sub-No. 7) to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 927-5610 or James L. Brown, (202) 927-5303. [TDD for the hearing impaired: (202) 927-5721.]

Decided: October 25, 1993.

By the Commission, Anne K. Quinlan, Acting Secretary.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. 93-26599 Filed 10-27-93; 8:45 am]

BILLING CODE 7035-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[I.D. 102093G]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon and California

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearings and request for comments.

SUMMARY: The Pacific Fishery Management Council (Council) will hold public hearings and receive public comments on Draft Amendment 11 to the Fishery Management Plan (FMP) for Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon and California. Draft Amendment 11 considers a change to the spawning escapement goal for Oregon Coastal Natural (OCN) coho and modification of the criteria governing Council actions in regard to managing subarea allocations for coho harvest south of Cape Falcon, Oregon.

DATES: Public hearings will be held November 8–10, 1993, at various locations. Written comments addressed to the council office should be received by November 9, 1993. A meeting of the full Council will be held on November 16, 1993.

The public may also provide oral and written comments during the Council session commencing at 8 a.m. on Tuesday, November 16, 1993, in Millbrae, California.

ADDRESSES: Those wishing to submit oral or written testimony may do so at the hearing or by sending written comments to Lawrence D. Six, Executive Director, Pacific Fishery Management Council, 200 SW. First Avenue, suite 420, Portland, Oregon 97201-5344.

The hearings will be held at 7 p.m. at the following locations:

1. Tillamook on Monday, November 8, 1993—Shilo Inn, Wilson River Room, 215 N. Main Street, Tillamook, Oregon 97141,

2. Coos Bay on Tuesday, November 9, 1993—Red Lion Inn, Umpqua Room, 1313 North Bayshore Dr., Coos Bay, Oregon 97420, and

3. Eureka on Wednesday, November 10, 1993—Red Lion Inn, Humboldt Bay Room, 1929 Fourth Street, Eureka, California 95501.

The full Council session will be held on November 16, 1993, at the Clarion Hotel—San Francisco Airport, 401 East Millbrae Avenue, Millbrae, California 94030.

FOR FURTHER INFORMATION CONTACT: John C. Coon, 503–326–6352.

SUPPLEMENTARY INFORMATION: This amendment document contains a brief description of the proposed amendment along with a draft environmental assessment, regulatory impact review/ initial regulatory flexibility analysis, statement of consistency with coastal zone management programs, and review of other applicable law which could be affected by the amendment. The consideration of alternative management for OCN coho is needed to:

(1) Address the failure of the seventh amendment to the FMP to correctly anticipate the persistent low OCN coho stock abundance and subsequent frequency of annual spawner goals below maximum sustained yield,

(2) Avoid possible imbalances in coho harvest allocation at low allowable harvest levels, and

(3) Avoid the constant use of an emergency rule to implement annual regulations.

Dated: October 22, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–26504 Filed 10–27–93; 8:45 am]

BILLING CODE 3510–22–M

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50 CFR Parts 672 and 675

[Docket No. 930954–3254; I.D. 092193A]

RIN 0648–AF54

Groundfish Off the Gulf of Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to amend requirements for observer coverage of the groundfish fisheries in the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands (BSAI) management area. This action is necessary to improve management of the groundfish fisheries off Alaska. The intended effect of this action is to increase observer coverage of the groundfish harvests and to promote the fishery management objectives of the Fishery Management Plan (FMP) for Groundfish of the GOA and the FMP for the Groundfish Fishery of the BSAI with respect to groundfish management off Alaska.

DATES: Comments are invited until November 29, 1993.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802 (Attn: Lori Gravel). Copies of the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) and the Observer Plan may be obtained from the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg, Fisheries Management Division, Alaska Regional Office, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

Fishing for groundfish by vessels in the exclusive economic zone (EEZ) of the GOA and the BSAI is managed by the Secretary of Commerce (Secretary) according to the FMP for Groundfish of the GOA and the FMP for the Groundfish Fishery of the BSAI. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and are implemented by regulations governing the U.S. groundfish fisheries at 50 CFR parts 620, 672, and 675.

On November 1, 1989, the Secretary approved Amendments 13 and 18 to the groundfish FMPs for the BSAI and GOA, respectively. Regulations implementing those amendments were published on December 6, 1989 (54 FR 50386). Each of these amendments authorized a comprehensive domestic fishery observer program. An Observer Plan to implement the program was prepared by the Secretary in consultation with the Council and issued by NMFS, effective February 7, 1990 (55 FR 4839, February 12, 1990).

NMFS has experienced management problems with certain provisions of the Observer Plan. NMFS staff met with a Council-appointed Industry Oversight Committee on August 13, 1992, and recommended changes to the Observer Plan for Council consideration. The Council, at its December 1992 meeting, reviewed the changes recommended by NMFS staff and the Oversight Committee, received public comments on the proposed changes, and recommended that the Secretary make the following changes:

(1) Change the definition of a "fishing trip" and base observer coverage requirements on a new definition of "fishing days" instead of "fishing trip days";

(2) Increase observer coverage on vessels equal to or greater than 60 feet in length overall (LOA) but less than 125 feet LOA during each calender quarter and in each fishery;

(3) Increase observer coverage of vessels using hook-and-line gear in the Eastern Regulatory Area of the GOA;

(4) Revise observer coverage requirements for vessels using pot gear to participate in a directed fishery for groundfish; and

(5) Revise the conflict of interest standards for NMFS-certified observers and observer contractors.

A description of and reasons for these actions follow.

Change the Requirement for Observer Coverage From "Fishing Trip Days" to "Fishing Days" and Define "Fishing Days"

Currently, for purposes of observer coverage, a "fishing trip" is defined to start on the day when fishing gear is first deployed and end on the day the vessel offloads groundfish, returns to an Alaskan port, or leaves the EEZ off Alaska and adjacent waters of the State of Alaska (50 CFR 672.27(c)(1)(ii)(D) and 675.25(c)(1)(ii)(D)). Observer coverage is calculated by dividing the observed fishing trip days by the total fishing trip days for each vessel. NMFS compared actual sampling days in the GOA during the 1991 fishing year with the amount of observer coverage that was credited during fishing trips made by vessels in the 30 percent coverage category. The 30 percent coverage category includes those vessels from 60 through 124 feet LOA that fish for groundfish more than 10 days in a calendar quarter. NMFS found that, during 1991, no hauls or sets were sampled on 23 to 32 percent of the days for which vessels received observer coverage, depending on the gear type. Days may not be sampled for numerous reasons, including running time, poor fishing, gear problems, unavailability of the observer, or manipulation of the observer coverage requirements.

NMFS examined a sample of fishing records for vessels in the 30 percent observer coverage category for the 1992 fishing year, and determined that approximately 21 percent of the fishing

days for which vessels obtained credit for observer coverage occurred on days when groundfish were not caught and retained. NMFS is not obtaining needed information from vessels in the 30 percent coverage class.

The Council recommended changing the basis of observer coverage to fishing days. NMFS is proposing to define a fishing day as a 24-hour period from 0001 Alaska local time (A.l.t.) through 2400 A.1.t. during which fishing gear is retrieved and groundfish, as defined at 50 CFR 672.2 and 675.2, are retained for further processing.

Increasing Observer Coverage on Vessels Equal to or Greater Than 60 Feet LOA But Less Than 125 Feet LOA During Each Calendar Quarter and in Each Fishery

Currently, operators of catcher/processors and catcher vessels from 60 through 124 feet LOA are required to carry a NMFS-certified observer 30 percent of the days during fishing trips in each calendar quarter in which the vessels fish more than 10 days in the groundfish fishery (50 CFR 672.27(c)(1)(iii)(D) and 675.25(c)(1)(iii)(D)). At present, operators of vessels in the 30 percent observer coverage category can choose which fishing trips and fisheries to have an observer present. Vessel operators potentially could manipulate observer coverage to avoid having an observer onboard while operating in fisheries that experience high bycatch of prohibited species. Also, fisheries openings have become shorter in recent years, and more vessels are exempted from observer coverage because these vessels fish 10 days or less in a quarter. This situation could result in unrepresentative observer data from particular fisheries.

The Council recommended amending the observer regulations to require operators of vessels equal to or greater than 60 feet LOA but less than 125 feet LOA to carry an observer 30 percent of the fishing days in each calendar quarter in which the vessels participate for more than 3 fishing days in a directed fishery for groundfish. The change from a 10-fishing day trigger to a 3-fishing day trigger is intended to promote data collection in fisheries of shorter duration. This change would: (1) Result in a more representative distribution of observer effort; (2) provide prohibited species bycatch rates that more accurately reflect the fishery; and (3) provide more complete biological data needed for management of the stocks.

The Council also recommended amending the regulations to require each vessel equal to or greater than 60 feet LOA but less than 125 feet LOA to carry an observer during at least one fishing trip for each groundfish fishery in which the vessel participates during a calendar quarter. Fishermen would need to plan their fishing operations for each fishery in which they intend to participate. Fishermen may also want to assure that they have observer coverage for the first trip or an early trip in each fishery because early fishery closures, vessel breakdowns, bad weather, poor market conditions, or other reasons might result in cancellation of other trips in that fishery during the quarter.

To ease the logistical burdens of obtaining observer coverage in potential groundfish fisheries, NMFS proposes to define fishery categories for purposes of observer coverage requirements. These categories are intended to improve observer coverage of fisheries that are not adequately covered under the current Observer Plan. Proposed fishery categories are defined as follows:

Pollock fishery. Fishing that results in a retained amount of pollock during any weekly reporting period that is greater than the retained amount of any other groundfish species or species group that are specified as a separate groundfish fishery for purposes of determining observer coverage requirements.

Pacific cod fishery. Fishing that results in a retained amount of Pacific cod during any weekly reporting period that is greater than the retained amount of any other groundfish species or species group that are specified as a separate groundfish fishery for purposes of determining observer coverage requirements.

Sablefish fishery. Fishing that results in a retained amount of sablefish during any weekly reporting period that is greater than the retained amount of any other groundfish species or species group that are specified as a separate groundfish fishery for purposes of determining observe coverage requirements.

Rockfish fishery. Fishing that results in a retained aggregate amount of rockfish of the genera *Sebastes* and *Sebastolobus* during any weekly reporting period that is greater than the retained amount of any other groundfish species or species group that are specified as a separate groundfish fishery for purposes of determining observer coverage requirements.

Flatfish fishery. Fishing that results in a retained aggregate amount of all flatfish species except Pacific halibut during any weekly reporting period that is greater than the retained amount of any other groundfish species or species group that are specified as a separate groundfish fishery for purposes of determining observer coverage requirements.

Other species of groundfish fishery. Fishing that results in a retained amount of groundfish during any weekly reporting period that does not qualify as a pollock, Pacific cod, sablefish, rockfish, or flatfish fishery.

NMFS also proposes to clarify the size range intended for 30 percent observer coverage vessels by defining it as equal to or greater than 60 feet LOA but less than 125 feet LOA instead of the range as described in the current regulations, which reads 60 through 124 feet LOA. This change clarifies that vessels between 124 and 125 feet LOA are included in the 30 percent observer coverage category.

Increase Observer Coverage of Vessels Using Hook-and-Line Gear in the Eastern Regulatory Area

The Council recommended that observer coverage requirements be revised to increase observer coverage for vessels fishing for groundfish in the Eastern Regulatory Area of the GOA using hook-and-line gear. Hook-and-line gear fisheries occurring in the Eastern Regulatory Area presently are not adequately covered. NMFS proposes to require operators of catcher/processor and catcher vessels using hook-and-line gear that participate in a directed fishery for groundfish to carry a NMFS-certified observer during at least one fishing trip in the Eastern Regulatory Area during each calender quarter that they participate in a directed fishery for groundfish in this area. This change also would minimize the opportunity to manipulate observer coverage and result in a more representative distribution of observer coverage among areas.

Revise Observer Coverage Requirements for Vessels Participating in a Pot Gear Fishery for Groundfish, and Which Are Equal to or Greater Than 60 Feet LOA

Analysis of observer data from the groundfish pot gear fishery has shown that groundfish pot gear has low bycatch rates and low mortality of prohibited species. In 1990, halibut bycatch by pot gear vessels accounted for 0.3 percent of the halibut bycatch mortality in the BSAI and 1.1 percent of the GOA halibut mortality. In 1990, approximately 92 percent of the halibut bycatch in the groundfish pot gear fishery were in excellent condition at the time of release. The 1991 observer data indicated that approximately 96 percent of the halibut released were in excellent condition. The 1990 groundfish pot gear fishery in the BSAI accounted for 7.7 percent of the red king crab bycatch, 1.1 percent of the *C. bairdi*

Tanner crab bycatch and 8.4 percent of the bycatch of other Tanner crab. The 1990 GOA groundfish pot fishery accounted for 91 percent of the red king crab bycatch, 51.8 percent of the *C. bairdi* bycatch, and 25.8 percent of the other Tanner crab bycatch. Data collection by observers on the condition of crab at time of release showed that more than 95 percent of all crab were released in excellent condition.

Presently, vessels using pot gear are currently subject to the same levels of observer coverage as vessels using other gear types. Vessels 125 feet LOA or longer must have 100-percent observer coverage and vessels from 60 feet LOA but less than 125 feet LOA must have 30 percent coverage by quarter (50 CFR 672.27(c)(1)(iii)(C) and 675.25(c)(1)(iii)(C)).

The Council recommended that each vessel using pot gear that is equal to or greater than 60 feet LOA carry an observer during at least 30 percent of its fishing days during each calendar quarter in which it participates for more than 3 days in a directed groundfish pot gear fishery. This alternative would maintain the status quo for observer coverage requirements for vessels currently required to carry observers at least 30 percent of the time but would reduce the coverage of vessels 125 feet LOA or longer from 100 to 30 percent. The intent of this proposed change is to reward the use of gear with low bycatch rates and mortality of prohibited species through a reduction in the cost of observer coverage.

Revise the Conflict of Interest Standards for Observers and Observer Contractors

The existing conflict of interest standards for observers and contractors appear on pages 4, 5, and 7 of the Observer Plan (July 2, 1991), page 12 of Attachment 3, and pages 21 and 22 of Attachment 4 to the Observer Plan. The changes would include: (1) Placing restrictions on observers who were previously employed in the observed fishery; and (2) prohibiting observer contractors from assigning observers in response to requests for or against a specific individual or specific gender, race, creed, or age of individual. Each of these changes is addressed below.

1. Prohibiting a person from being an observer on a vessel or facility owned by a company who employed that person within the preceding 12 months.

An appearance of a conflict of interest could occur if a person serves as an observer on a vessel or at a shoreside facility that is owned or operated by a person who previously employed that observer. A similar appearance could occur if a person were to alternate between working as an employee for a fishing company and working as an observer on a vessel or shoreside facility owned by the same company. To avoid this situation, the Council recommended that an individual be prohibited from serving as a certified observer on any vessel or at any shoreside facility owned or operated by a person who previously employed the individual serving as an observer for a period of 12 months after being employed by that person.

2. Prohibiting observer contractors from assigning observers in response to request for or against a specific individual or specific gender, race, creed, or age of individual.

The current language of the Observer Plan prohibits contractors from responding to requests from owners and operators of vessels or shoreside proceeding facilities for specific individuals to serve as observers. However, it does not prohibit contractors from responding to requests for a specific gender, race, creed, or age of individual. The Council recommends disallowing this type of discrimination.

The Council also recommended narrowing the current conflict of interest standards for financial and personal interest. NMFS believes that this change would weaken the existing standards and does not propose to make the changes recommended by the Council.

NMFS proposes the following conflict of interest standards in the Observer Plan:

Conflict of Interest Standards

a. A certified observer—

1. Must be employed by an independent contracting agency certified by NMFS to provide observer services to the industry;

2. May not have a financial interest in the observed fishery;

3. May not have a personal interest in the vessel or shoreside facility to which he or she is assigned;

4. May not solicit, accept, or receive, directly or indirectly, a gift, whether in the form of money, service, loan, travel, entertainment, hospitality, employment, promise, or in any form that is a benefit to the observer, under circumstances in which it could be reasonably inferred that the gift is intended to influence the performance of official duties, actions, or judgment;

5. May not serve as an observer on any vessel or at any shoreside facility owned or operated by a person (as that term is defined at 50 CFR 620.2) who previously employed the observer, for a period of 12 months after being employed by that person.

b. A certified observer contractor—

1. May not be an individual, partnership, or corporation with a personal or financial interest in the observed fishery, shoreside facilities or vessels, other than the provision of observers;

2. Shall assign observers without regard to any preference by representatives of vessels and shoreside facilities for or against a specific observer;

3. Shall assign observers without regard to any preference by representatives of vessels and shoreside facilities for or against any classification of observers based on race, gender, age, or religion.

NMFS proposes these regulations for public comment. NMFS also proposes to reduce redundant regulatory language by cross referencing observer requirements set forth at 50 CFR 675.25 to the identical regulatory text set forth at 50 CFR 672.27.

Classification

The Assistant Administrator for Fisheries, NOAA, (AA) has initially determined that the proposed amendments to the Observer Plan and implementing regulations are necessary for the conservation and management of the groundfish fishery off Alaska, and are consistent with the Magnuson Act and other applicable laws.

The Alaska Region, NMFS, and the Council prepared an EA for this rule that describes the impact on the environment as a result of this rule. A copy of the EA may be obtained (see **ADDRESSES**).

The EA/RIR/IRFA prepared for this proposed rule analyzes the cost and benefits and potential economic and environmental impacts of the proposed action on the affected industry and State and local governments. A copy of the EA/RIR/IRFA may be obtained (see **ADDRESSES**).

NMFS and Council staff prepared an initial regulatory flexibility analysis as part of the regulatory impact review, which concludes that this proposed rule, if adopted, would have significant effects on a substantial number of small entities (i.e., small businesses, small organizations, and small governmental jurisdictions with limited resources). This proposed rule will result in increased observer coverage and increased costs to vessels requiring 30 percent observer coverage, many of which are also considered small entities. In 1992, about 500 of the 2,431 vessels permitted to harvest groundfish in the GOA and BSAI were classified as requiring 30 percent observer coverage. The most important impacts on these vessels will be as a result of basing

observer coverage on fishing days rather than trips and on the 3-fishing-day trigger rather than a 10-day trigger. These increased costs may be significant to many of these vessels. A copy of the EA/RIR/IRFA may be obtained (see **ADDRESSES**).

This proposed rule does not contain a collection-of-information requirement subject to the Paperwork Reduction Act.

NMFS has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management program of the State of Alaska. This determination has been submitted for review by the responsible State agency under section 307 of the Coastal Zone Management Act.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under E.O. 12612.

The Regional Director determined that fishing activities conducted under this rule would not adversely affect endangered or threatened species or critical habitat under the Endangered Species Act.

The Regional Director determined that fishing activities conducted under this rule would have no adverse impacts on marine mammals.

List of Subjects in 50 CFR Parts 672 and 675

Fisheries, Reporting and recordkeeping requirements.

Dated: October 22, 1993.

Charles Karnella,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 672 and 675 are proposed to be amended as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for 50 CFR part 672 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 672.27, the first sentence of paragraph (a) and paragraphs (b), (c)(1)(ii)(D) and (c)(1)(iii) (C) and (D) are revised and paragraphs (c)(1)(ii)(E), (c)(1)(iii)(E), (c)(1)(iii)(F), (c)(1)(iv) and (c)(1)(v) are added to read as follows:

§ 672.27 Observers.

(a) *Observer Plan.* The operator of a fishing vessel subject to 50 CFR parts 672 and 675, and the manager of a shoreside processing facility that receives groundfish from vessels subject to 50 CFR parts 672 and 675, must comply with the Observer Plan. * * *

(b) *Purpose.* The purpose of this section is to allow observers to collect Alaska fisheries data deemed by the Regional Director to be necessary and appropriate for research, management, and compliance monitoring of fisheries for groundfish, as defined at § 672.2 of this part and § 675.2 of this chapter, or for other purposes consistent with the Marine Mammal Protection Act.

(c) * * *

(1) * * *

(ii) * * *

(D) *Fishing trip* means the time period that starts on the day when fishing gear is first deployed and ends on the day the vessel offloads groundfish, returns to an Alaskan port, or leaves the EEZ off Alaska and adjacent waters of the State of Alaska and during which one or more fishing days, as defined in this section, occur.

(E) *Fishing day* means a 24-hour period, from 0001 A.l.T. through 2400 A.l.t., in which fishing gear is retrieved and groundfish, defined at § 672.2 of this part or § 675.2 of this chapter, are retained. Days during which a vessel only delivers unsorted codends to another processor are not fishing days.

(iii) * * *

(C) Operators of catcher/processors or catcher vessels 125 feet in length overall or longer must carry a NMFS-certified observer at all times while fishing for groundfish, except for vessels fishing for groundfish with pot gear as provided for in paragraph (c)(1)(iii)(F) of this section.

(D) Operators of catcher/processors or catcher vessels equal to or greater than 60 feet LOA but less than 125 feet LOA must carry a NMFS-certified observer during at least 30 percent of their fishing days in each calendar quarter in which they participate for more than 3 fishing days in a directed fishery for groundfish. Each vessel that has participated for more than 3 fishing days in a directed fishery for groundfish must carry a NMFS-certified observer during at least one fishing trip during a calendar quarter for each of the groundfish fishery categories defined under paragraph (c)(1)(iv) of this section in which the vessel participates.

(E) Operators of catcher/processors or catcher vessels fishing with hook-and-line gear that are required to carry an observer under paragraph (c)(1)(iii)(D) of this section must carry a NMFS-certified observer during at least one fishing trip in the Eastern Regulatory Area of the Gulf of Alaska during each calendar quarter that they participate in a directed fishery for groundfish in the Eastern Regulatory Area.

(F) Operators of catcher/processors or catcher vessels equal to or greater than 60 feet LOA fishing with pot gear must carry a NMFS-certified observer during at least 30 percent of their fishing days in each calendar quarter in which they participate for more than 3 days in a directed fishery for groundfish. Each vessel that has participated for more than 3 fishing days in a directed fishery for groundfish using pot gear must carry a NMFS-certified observer during at least one fishing trip during a calendar quarter for each of the groundfish fishery categories defined under paragraph (c)(1)(iv) of this section in which the vessel participates.

(iv) *Groundfish fishery categories requiring separate coverage.* (A) *Pollock fishery.* Fishing that results in a retained amount of pollock during any weekly reporting period that is greater than the retained amount of any other groundfish species or species group that is specified as a separate groundfish fishery under paragraph (c)(1)(iv) of this section.

(B) *Pacific cod fishery.* Fishing that results in a retained amount of Pacific cod during any weekly reporting period that is greater than the retained amount of any other groundfish species or species group that is specified as a separate groundfish fishery under paragraph (c)(1)(iv) of this section.

(C) *Sablefish fishery.* Fishing that results in a retained amount of sablefish during any weekly reporting period that is greater than the retained amount of any other groundfish species or species group that is specified as a separate groundfish fishery under paragraph (c)(1)(iv) of this section.

(D) *Rockfish fishery.* Fishing that results in a retained aggregate amount of rockfish of the genera *Sebastes* and *Sebastolobus* during any weekly reporting period that is greater than the retained amount of any other groundfish species or species group that is specified as a separate groundfish fishery under paragraph (c)(1)(iv) of this section.

(E) *Flatfish fishery.* Fishing that results in a retained aggregate amount of all flatfish species except Pacific halibut during any weekly reporting period that is greater than the retained amount of any other groundfish species or species group that is specified as a separate groundfish fishery under paragraph (c)(1)(iv) of this section.

(F) *Other species fishery.* Fishing that results in a retained amount of groundfish during any weekly reporting period that does not qualify as a pollock, Pacific cod, sablefish, rockfish, or flatfish fishery under paragraphs (c)(1)(iv)(A) through (c)(1)(iv)(E) of this section.

(v) *Assignment of vessels to fisheries.* During any weekly reporting period, a vessel's retained catch composition of groundfish species or species groups for which a TAC has been specified under § 672.20 of this part or § 675.20 of this

chapter, in round weight equivalents, will determine which of the fishery categories listed under paragraph (c)(1)(iv) of this section the vessel is assigned.

(A) Catcher processor vessels will be assigned to fishery categories at the end of each weekly reporting period based on the round weight equivalent of the retained groundfish catch composition reported on a vessel's weekly production report that is submitted to the Regional Director under § 672.5(c)(2) of this part or § 675.5(c)(2) of this chapter.

(B) Catcher vessels that deliver to mothership processors in Federal waters during a weekly reporting period will be assigned to fishery categories based on the round weight equivalent of the retained groundfish catch composition reported on the weekly production report submitted to the Regional Director for that week by the mothership under § 672.5(c)(2) of this part or § 675.5(c)(2) of this chapter.

(C) Catcher vessels delivering groundfish to shoreside processors or to mothership processors in Alaska State waters during a weekly reporting period will be assigned to fishery categories based on the round weight equivalent of the groundfish delivered to the processor and reported on an Alaska Department of Fish and Game fish ticket as required under Alaska State regulations at A.S. 16.05.690.

* * * * *

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

3. The authority citation for 50 CFR part 675 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

4. Section 675.25 is revised to read as follows:

§ 675.25 Observers.

Observer requirements authorized under the Observer Plan are set forth at § 672.27 of this chapter.

[FR Doc. 93–26503 Filed 10–27–93; 8:45 am]
BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 58, No. 207
Thursday, October 28, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

October 22, 1993.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extension, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (40 How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404–W Admin. Bldg., Washington, DC 20250, (202) 690–2118.

Revision

- Farmers Home Administration
7 CFR 1980–B, Guaranteed Farmer Program Loans
FmHA 449–11, 1980–15, 24, 25, 38, 58, 64
On occasion
Individuals or households; State or local governments; Farms; Businesses or other for-profit; 158,140 responses; 235,427 hours Jack Holston (202) 720–9736.

New Collection

- Food Safety and Inspection Service
Centralization and Automation of the Export Certification Process 9060–14
Recordkeeping; one-time only
Businesses or other for-profit; Federal agencies or employees;
100 responses 30,758 hours
Victoria Levine (202) 720–7163.

Larry K. Roberson,

Deputy Department Clearance Officer.

[FR Doc. 93–26519 Filed 10–27–93; 8:45 am]

BILLING CODE 3410–01–M

Forest Service

Newspapers Used for Publication of Legal Notice of Appealable Decisions for Intermountain Region, Utah, Idaho, Nevada, and Wyoming

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all ranger districts, forests, and the Regional Office of the Intermountain Region to publish legal notice of all decisions subject to appeal under 36 CFR part 217. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices of decisions, thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after October 31, 1993. The list of newspapers will remain in effect until April 1994 when another notice will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: K. Dale Torgerson, Regional Appeals and Litigation Manager, Intermountain Region, 324 25th Street, Ogden, UT 84401, phone (801) 625–5279.

SUPPLEMENTARY INFORMATION: The administrative appeal procedures 36 part CFR 217, of the Forest Service require publication of legal notice in a newspaper of general circulation of all decisions subject to appeal. This newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested and affected by a specific decision.

The legal notice is to identify: The decision by title and subject matter; the date of the decision; the names and title of the official making the decision; and how to obtain copies of the decision. In addition, the notice is to state the date the appeal period begins which is the day following publication of the notice.

The timeframe for appeal shall be based on the date of publication of the notice in the first (principal) newspaper listed for each unit.

The newspapers to be used are as follows:

Regional Forester, Intermountain Region

For decisions made by the Regional Forester affecting National Forests in Idaho: The Idaho Statesman, Boise, Idaho.

For decisions made by the Regional Forester affecting National Forests in Nevada: The Reno Gazette-Journal, Reno, Nevada.

For decisions made by the Regional Forester affecting National Forests in Wyoming: Casper Star-Tribune, Casper, Wyoming.

For decisions made by the Regional Forester affecting National Forests in Utah: Standard-Examiner, Ogden, Utah.

If the decision made by the Regional Forester affects all National Forests in the Intermountain Region, it will appear in: Standard-Examiner, Ogden, Utah.

Ashley National Forest

Ashley Forest Supervisors decisions: Vernal Express, Vernal, Utah.

Vernal District Ranger decisions: Vernal Express, Vernal, Utah.

Flaming Gorge District Ranger for decisions affecting Wyoming: Casper Star Tribune, Casper, Wyoming.

Flaming Gorge District Ranger for decisions affecting Utah: Vernal Express, Vernal, Utah.

Roosevelt and Duchesne District Ranger decisions: Uintah Basin Standard, Roosevelt, Utah

Boise National Forest

Boise Forest Supervisor decisions: The Idaho Statesman, Boise, Idaho.

Mountain Home District Ranger decisions: Mountain Home News, Mountain Home, Idaho.

Boise District Ranger decisions: The Idaho Statesman, Boise, Idaho.

Idaho City District Ranger decisions: The Idaho Statesman, Boise, Idaho.

Cascade District Ranger decisions: The Advocate, Cascade, Idaho.
Lowman District Ranger decisions: The Idaho City World, Idaho City, Idaho.
Emmett District Ranger decisions: The Messenger-Index, Emmett, Idaho

Bridger-Teton National Forest

Bridger-Teton Forest Supervisor decisions: Casper Star-Tribune, Casper, Wyoming.
Jackson District Ranger decisions: Casper Star-Tribune, Casper, Wyoming.
Buffalo District Ranger decisions: Casper Star-Tribune, Jackson, Wyoming.
Big Piney District Ranger decisions: Casper Star-Tribune, Jackson, Wyoming.
Pinedale District Ranger decisions: Casper Star-Tribune, Casper, Wyoming.
Greys River District Ranger decisions: Casper Star-Tribune, Casper, Wyoming.
Kemmerer District Ranger decisions: Casper Star-Tribune, Casper, Wyoming.

Caribou National Forest

Caribou Forest Supervisor decisions: Idaho State Journal, Pocatello, Idaho.
Soda Springs District Ranger decisions: Idaho State Journal, Pocatello, Idaho.
Montpelier District Ranger decisions: Idaho State Journal, Pocatello, Idaho.
Malad District Ranger decisions: Idaho State Journal, Pocatello, Idaho.
Pocatello District Ranger decisions: Idaho State Journal, Pocatello, Idaho.

Challis National Forest

Challis Forest Supervisor decisions: The Challis Messenger, Challis, Idaho.
Middle Fork District Ranger decisions: The Challis Messenger, Challis, Idaho.
Challis District Ranger decisions: The Challis Messenger, Challis, Idaho.
Yankee Fork District Ranger decisions: The Challis Messenger, Challis, Idaho.
Lost River District Ranger decisions: The Challis Messenger, Challis, Idaho.

Dixie National Forest

Dixie Forest Supervisor decisions: The Daily Spectrum, St. George, Utah.
Pine Valley District Ranger decisions: The Daily Spectrum, St. George, Utah.
Cedar City District Ranger decisions: The Daily Spectrum, St. George, Utah.
Powell District Ranger decisions: The Daily Spectrum, St. George, Utah.
Escalante District Ranger decisions: The Daily Spectrum, St. George, Utah.
Teasdale District Ranger decisions: The Daily Spectrum, St. George, Utah.

Fishlake National Forest

Fishlake Forest Supervisor decisions: Richfield Reaper, Richfield, Utah.
Loa District Ranger decisions: Richfield Reaper, Richfield, Utah.
Richfield District Ranger decisions: Richfield Reaper, Richfield, Utah.
Beaver District Ranger decisions: Beaver Press, Beaver, Utah.
Fillmore District Ranger decisions: Millard County Chronicle-Progress, Fillmore, Utah.

Humboldt National Forest

Humboldt Forest Supervisor decisions: Elko Daily Free Press, Elko, Nevada.
Mountain City District Ranger decisions: Elko Daily Free Press, Elko, Nevada.
Jarbidge and Ruby Mountain District Ranger decisions: Elko Daily Free Press, Elko, Nevada.
Ely District District Ranger decisions: Ely Daily Times, Ely, Nevada.
Santa Rosa District Ranger decisions: Humboldt Sun, Winnemucca, Nevada.
Jarbidge District Ranger decisions: Twin Falls Times News, Twin Falls, Idaho.

Manti-Lasal National Forest

Manti-Lasal Forest Supervisor decisions: Sun Advocate, Price, Utah.
Sanpete District Ranger decisions: Mt. Pleasant Pyramid, Mt. Pleasant, Utah.
Ferron District Ranger decisions: Emery County Progress, Castle Dale, Utah.
Price District Ranger decisions: Sun Advocate, Price, Utah.
Moab District Ranger decisions: The Times Independent, Moab, Utah.
Monticello District Ranger decisions: The San Juan Record, Monticello, Utah.

Payette National Forest

Payette Forest Supervisor decisions: Idaho Statesman, Boise, Idaho.
Weiser District Ranger decisions: Signal American, Weiser, Idaho.
Council District Ranger decisions: Council Record, Council, Idaho.
New Meadows, McCall, and Krassel District Ranger decisions: Star News, McCall, Idaho.

Salmon National Forest

Salmon Forest Supervisor decisions: The Recorder-Herald, Salmon, Idaho.
Cobalt District Ranger decisions: The Recorder-Herald, Salmon, Idaho.
North Fork District Ranger decisions: The Recorder-Herald, Salmon, Idaho.
Leadore District Ranger decisions: The Recorder-Herald, Salmon, Idaho.
Salmon District Ranger decisions: The Recorder-Herald, Salmon, Idaho.

Sawtooth National Forest

Sawtooth Forest Supervisor decisions: The Times News, Twin Falls, Idaho.
Burley District Ranger decisions: South Idaho Press, Burley, Idaho.
Twin Falls District Ranger decisions: The Times News, Twin Falls, Idaho.
Ketchum District Ranger decisions: Wood River Journal, Hailey, Idaho.
Sawtooth National Recreation Area Challis Messenger, Challis, Idaho.
Fairfield District Ranger decisions: The Times News, Twin Falls, Idaho.

Targhee National Forest

Targhee Forest Supervisor decisions: The Post Register, Idaho Falls, Idaho.
Dubois District Ranger decisions: The Post Register, Idaho Falls, Idaho.
Island Park District Ranger decisions: The Post Register, Idaho Falls, Idaho.
Ashton District Ranger decisions: The Post Register, Idaho Falls, Idaho.
Palisades District Ranger decisions: The Post Register, Idaho Falls, Idaho.
Teton Basin District Ranger decisions: The Post Register, Idaho Falls, Idaho.

Toiyabe National Forest

Toiyabe Forest Supervisor decisions: Reno Gazette-Journal, Reno, Nevada.
Carson District Ranger decisions: Reno Gazette-Journal, Reno, Nevada.
Austin District Ranger decisions: Reno Gazette-Journal, Reno, Nevada.
Bridgeport District Ranger decisions: The Review-Herald, Mammoth Lakes, California.
Tonopah District Ranger decisions: Tonopah Times Bonanza-Goldfield News, Tonopah, Nevada.
Las Vegas District Ranger decisions: Las Vegas Review Journal, Las Vegas, Nevada.

Uinta National Forest

Uinta Forest Supervisor decisions: The Daily Herald, Provo, Utah.
Pleasant Grove District Ranger decisions: The Daily Herald, Provo, Utah.
Heber District Ranger decisions: The Daily Herald, Provo, Utah.
Spanish Fork District Ranger decisions: The Daily Herald, Provo, Utah.

Wasatch-Cache National Forest

Wasatch-Cache Forest Supervisor decisions: Salt Lake Tribune, Salt Lake City, Utah.
Salt Lake District Ranger decisions: Salt Lake Tribune, Salt Lake City, Utah.
Kamas District Ranger decisions: Salt Lake Tribune, Salt Lake City, Utah.
Evanston District Ranger decisions: Uintah County Herald, Evanston, Wyoming.
Mountain View District Ranger decisions: Uintah County Herald, Evanston, Wyoming.
Ogden District Ranger decisions: Ogden Standard Examiner, Ogden, Utah.

Logan District Ranger decisions: Logan Herald Journal, Logan, Utah.

Dated: October 6, 1993.

Gray P. Reynolds,

Regional Forester.

[FR Doc. 93-26485 Filed 10-27-93; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Lower Caney Bayou Watershed, AR; Deauthorization of Funding

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of deauthorization of Federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Public Law 83-566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Lower Caney Bayou Watershed project, Chicot County, Arkansas, effective on October 1, 1993.

FOR FURTHER INFORMATION CONTACT: Ronnie D. Murphy, State Conservationist, Soil Conservation Service, room 5404, Federal Building, 700 West Capitol Avenue, Little Rock, Arkansas 72201, (501) 324-5445.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: October 15, 1993.

Ronnie D. Murphy,

State Conservationist.

[FR Doc. 93-26484 Filed 10-27-93; 8:45 am]

BILLING CODE 3410-16-M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Maine Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Maine Advisory Committee to the Commission will be convened at 6:30 p.m. and adjourn at 9:30 p.m. on Thursday, November 18, 1993, at the Sheraton Tara Hotel, Oxford Room, 363 Maine Mall Road, S. Portland, Maine 04106. The purpose of the meeting is to plan activities for FY '94 based on the all-day briefing held in September 1993.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Dr. Barney Berubé, 207-287-5980 or John I. Binkley, Director of the Eastern Regional Office, 202-376-7533 (TDD 202-376-8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 21, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93-26566 Filed 10-27-93; 8:45 am]

BILLING CODE 6335-01-P

Agenda and Notice of Public Meeting of the Minnesota Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Minnesota Advisory Committee to the Commission will be held from 10 a.m. until 4 p.m. on Thursday, November 18, 1993, at the Crown Sterling Suites, 425 S. 7th Street, Minneapolis, Minnesota 55415. The purpose of the meeting is to discuss current issues and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Mary E. Ryland, 218-727-3673 or Constance M. Davis, Director of the Midwestern Regional Office, 312-353-8311 (TDD 312-353-8326). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 21, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93-26565 Filed 10-27-93; 8:45 am]

BILLING CODE 6335-01-P

Agenda and Notice of Public Meeting of the New Hampshire Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New Hampshire Advisory Committee will be convened at 6:30 p.m. and adjourn at 9:30 p.m. on Friday, November 19, 1993, at the Sheraton Tara Wayfarer Inn, 121 S. River Road, Bedford, New Hampshire 03110. The purpose of the meeting is to provide an orientation for new members and prepare for the forum to be held the next day. On the following day, Saturday, November 20, 1993, the Committee will convene a community forum at 9 a.m. and adjourn at 5:15 p.m. at the same place, the Sheraton Tara Wayfarer Inn. The purpose of the forum is to gather information on demographic changes, racial tension, and the role of local governments.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Mrs. Sylvia F. Chaplain, 617-227-5662, or John I. Binkley, Director of the Eastern Regional Office, 202-376-7533 (TDD 202-376-8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 18, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93-26567 Filed 10-27-93; 8:45 am]

BILLING CODE 6335-01-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-508-605]

Industrial Phosphoric Acid From Israel; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce is conducting an administrative review of the countervailing duty order on industrial phosphoric acid from Israel. We preliminarily determine the net subsidy to be 6.98 percent *ad valorem* for all firms during the period January 1, 1991 through December 31, 1991. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: October 28, 1993.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Cameron Cardozo, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On August 12, 1992, the Department of Commerce (the Department) published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" (57 FR 36063) of the countervailing duty order on industrial phosphoric acid from Israel (52 FR 31057; August 19, 1987) for the period January 1, 1991 to December 31, 1991. On August 28, 1992, the petitioners, FMC Corporation and the Monsanto Company, requested an administrative review of the order for the 1991 period.

On August 31, 1992, Rotem Fertilizers Ltd., a producer and exporter of the subject merchandise, requested on behalf of Negev Phosphates Ltd. (NPL) that we conduct an administrative review of the order for the same period. NPL merged with Rotem on December 31, 1991 after operating independently throughout the review period.

We initiated the review on September 28, 1992 (57 FR 44551). The Department is conducting this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of Review

Imports covered by this review are shipments of industrial phosphoric acid (IPA) from Israel. Such merchandise is classifiable under item number 2809.20.00 of the Harmonized Tariff Schedule (HTS). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1991 through December 31, 1991, and nine programs. The Government of Israel (GOI) identified NPL as the only producer of the subject merchandise in Israel exporting to the United States during the review period.

Analysis of Programs

(1) Encouragement of Capital Investments Law (ECIL) Grants

The ECIL grants program was established to attract capital to Israel. In order to be eligible to receive various benefits under the ECIL, including investment grants, capital grants, accelerated depreciation, reduced tax rates, and certain loans, the applicant must obtain approved enterprise status.

Approved enterprise status is obtained after a review of information submitted to the Investment Center of the Israeli Ministry of Industry and Trade. Investment grants are given as a percentage of the cost of the approved investment. The amount of the grant benefits received by approved enterprises depends on the geographic location of the eligible enterprise. For purposes of the ECIL program, Israel is divided into three zones—Development Zone A, Development Zone B, and the Central Zone—each with a different funding level.

Since 1978, only investment projects outside the Central Zone have been eligible to receive grants. The Central Zone comprises the geographic center of Israel, including its largest and most developed population centers. In Final Affirmative Countervailing Duty Determination: Industrial Phosphoric Acid from Israel (52 FR 129; July 7, 1987) (IPA Investigation), the Department found the ECIL grants program to be *de jure* specific and thus countervailable because the grants are limited to enterprises located in specific regions. The GOI has provided no new information to warrant reconsideration of this finding.

NPL is located in Development Zone A, and received ECIL investment, drawback, and capital grants in disbursements over a period of years for several projects. Three projects which received ECIL grants, two at the Zin plant and one at Arad, were unrelated to IPA production in 1991. Although the plant at Zin has produced input rock for IPA in prior review periods, none of the rock mined there in 1991 contributed to the production of IPA. The project at Arad was for production of phosphoric salts and was unrelated to IPA production. Therefore, we did not examine these ECIL grants for purposes of this review.

There were five projects that received ECIL grants and were related to IPA production in 1991, two of which applied directly to NPL's IPA production facilities and three of which applied to the phosphate rock processing plants at Arad and Oron, which produce an input for IPA. Expansion and renovation grants to these projects during the period 1982 through 1991 resulted in benefits to NPL during the period under review.

To calculate the benefit, we allocated these grants over ten years (the average useful life of renewable physical assets in the chemical manufacturing industry, as determined under the U.S. Internal Revenue Service Asset Depreciation Range System). To allocate benefits over time, we typically use as our discount rate the cost of the firm's long-term fixed-rate debt for the year in which the terms of the grant were approved. However, consistent with past reviews, because NPL had no fixed-rate long-term debt, we used the prevailing rate for long-term industrial development loans, adjusted for inflation, as the discount rate for grants received in the years 1982–1987. Because these rates were unavailable for 1988–1991, for this period we used the rate for government ten-year bonds in Israel, adjusted for inflation, from the 1991 Bank of Israel Annual Report as the average cost of long-term fixed-rate debt in Israel. (See, section 355.49(b)(2)(ii) of the Department's proposed regulations (54 FR 23366, May 31, 1989)). In accordance with the Department's practice as set forth in section 355.49(b)(3) of the Department's proposed regulations, we used a declining balance formula to determine the benefit stream for the relevant grants.

For the grants to the two IPA facility renovation projects, we divided the 1991 benefit, as calculated above, by the total value of all IPA sold during the period of review to determine the subsidy rate.

To determine the amount of the grants to the three Arad and Oron projects applicable to IPA production, the Department first calculated the 1991 grant benefit to the Arad and Oron facilities per unit of output of rock. We weighted these amounts by the percentages of Arad and Oron rock out of total rock used in IPA production. The total rock figure included some rock phosphate taken from a closed plant at Machtesh, which produced this input for IPA in the past and continues to store some of its previous production. The Arad and Oron weighted subsidies were added to obtain a total weighted subsidy per metric ton of rock. We multiplied this amount by the number of metric tons of rock needed to produce one metric ton of IPA. We then multiplied the subsidy on one metric ton of IPA by the total quantity of IPA sales during the period of review to obtain the amount of the benefit bestowed on IPA. To calculate the subsidy rate, we then divided this amount by the total value of all sales of IPA during the period of review.

We then added the benefit attributable to the review period by these three projects to the benefit received by the IPA facilities. On this basis, we preliminarily determine the benefit from this program to be 2.62 percent *ad valorem* for the 1991 review period.

(2) Long-Term Industrial Development Loans

Prior to July 1985, approved enterprises were eligible to receive long-term industrial development loans funded by the Government of Israel. During our investigation, we verified that these loans, like the ECIL grants, were project-specific. They were disbursed through the Industrial Development Bank of Israel (IDBI) and other industrial development banks which no longer exist.

The long-term industrial development loans were provided to a diverse number of industries, including agricultural, chemical, mining, machine, and others. However, the interest rates on loans vary depending on the Development Zone location of the borrower. The interest rates on loans to borrowers in Development Zone A are lowest, while those on loans to borrowers in the Central Zone are highest. Therefore, loans to companies in Zone A are provided on preferential terms relative to loans received by companies in the heavily populated and developed Central Zone. In *IPA Investigation* (52 FR 129; July 7, 1987), the Department found long-term industrial development loans to be regional subsidies and countervailable to the extent that the applicable interest rates are less than those on loans to companies in the Central Zone. The GOI has provided no new information to warrant reconsideration of this finding.

NPL had loans outstanding under this program during the review period for projects at its Arad and Oron phosphate rock processing plants, both of which produce an input for IPA. The loans provided for the rock processing facilities carry the Zone A interest rates because of NPL's location. Therefore, we determine that NPL received countervailable benefits under this program because the interest rates charged NPL are less than those which would apply in the Central Zone.

The loans under this program have variable interest rates linked to changes in the dollar-shekel exchange rate. Therefore, we cannot calculate the present value of the interest savings, nor is there a single discount rate for allocating the benefits over time, as we would normally do under our long-term loan methodology. Accordingly, we have compared the interest that would have been paid on a variable-rate benchmark loan (i.e., a loan available to firms in the Central Zone) to the interest paid on the preferential loan during the review period.

To determine the amount of the Arad loans applicable to IPA production, the Department first calculated the subsidy to the Arad facility per metric ton of rock and weighted this amount by the percentage of Arad rock out of total rock used in IPA production. The same calculation was used to determine the subsidy per unit of output rock at Oron. We added the weighted subsidies from Arad and Oron to obtain a total weighted subsidy. This amount was multiplied by the number of metric tons of rock needed to produce one metric ton of IPA. We then multiplied the subsidy on one ton of IPA by the total quantity of IPA sold to get a total subsidy. We then divided this amount by the total value of all sales of IPA. On this basis, we preliminarily determine the benefit from this program to be less than 0.005 percent during the 1991 review period.

(3) Exchange Rate Risk Insurance Scheme

Prior to September 1993, the Exchange Rate Risk Insurance Scheme (EIS), operated by the Israel Foreign Trade Risk Insurance Corporation Ltd. (IFTRIC), aimed to insure exporters against losses which resulted when the rate of inflation exceeded the rate of devaluation and the new Israeli Shekel (NIS) value of an exporter's foreign currency receivables did not rise enough to cover increases in local costs.

The EIS was optional and open to any exporter willing to pay a premium to IFTRIC. Compensation was based on a comparison of the change in the rate of devaluation of the NIS against a basket of foreign currencies with the change in the consumer price index.

If the rate of inflation was greater than the rate of devaluation, the exporter was compensated by an amount equal to the difference between these two rates multiplied by the value-added of the exports. If the rate of devaluation was higher than the change in the domestic price index, however, the exporter was required to compensate IFTRIC. The premium was calculated for all participants as a percentage of the value-added sales value of exports. IFTRIC changed this percentage rate periodically, but at any given time it was the same for all exporters.

In determining whether an export insurance program provides a countervailable benefit, we examine whether the premiums and other charges are adequate to cover the program's long-term operating costs and losses. Despite periodic increases in the premium rate, we determined in IPA Investigation (52 FR 129; July 7, 1987) that this program confers an export subsidy on exports of IPA from Israel. In addition, in our Preliminary Results of Countervailing Duty Administrative Review: Industrial Phosphoric Acid from Israel (57 FR 21958; May 26, 1992) and Final Results of Countervailing Duty Administrative Review; Industrial Phosphoric Acid from Israel (57 FR 169; August 31, 1992), we found that this program conferred a countervailable benefit on exporters in Israel of the subject merchandise. We have reviewed EIS data in this review which showed that EIS operated at a loss from 1981 through 1990. We believe that ten years, in this case, is a sufficiently long period to establish that the premiums and other charges are manifestly inadequate to cover the long-term operating costs and losses of the program. The GOI has provided no new information to warrant reconsideration of this determination.

In calculating the benefit, we have taken into account the special features of this program. Under a typical insurance scheme, the users pay premiums and then receive a payment if the event being insured against occurs. Under the EIS, the user received a payment if the inflation rate exceeded the depreciation rate or made an additional payment if the depreciation rate exceeded the inflation rate. Since the program has been in place, payments received by users have consistently exceeded the payments they have made to the scheme. Thus, users of the scheme had virtually no risk of incurring additional payment costs, and the "premiums" served predominantly as a fee to obtain payment from the scheme. Therefore, we have calculated the benefit rate by dividing the net amount of compensation NPL received during the review period from IFTRIC expressly for IPA exported to the United States, by the value of the company's exports of IPA to the United States during the review period. On this basis, we preliminarily determine the benefit from this program to be 4.36 percent *ad valorem* during the 1991 review period.

On August 3, 1993, the GOI submitted a letter stating that the EIS would be terminated effective September 1, 1993. In response to our supplemental questionnaire, the GOI confirmed that residual benefits would exist after September 1, 1993. Although termination of a program would normally require a change in the cash deposit rate, given these circumstances, we have not adjusted the cash deposit rate for this program.

(4) Other Programs

We also examined the following programs and preliminarily determine that exporters of industrial phosphoric

acid did not use them during the review period:

(A) Encouragement of Industrial Research and Development Grants (EIRD);

(B) Reduced tax rates under ECIL;

(C) ECIL section 24 loans;

(D) Preferential accelerated depreciation under ECIL;

(E) Labor training grants; and

(F) Dividends and Interest Tax Benefits under Section 46 of the ECIL.

Preliminary Results of Review

As a result of our review, we preliminarily determine the net subsidy rate to be 6.98 percent *ad valorem* for all firms during the period January 1, 1991 through December 31, 1991.

Therefore, the Department intends to instruct the Customs Service to assess countervailing duties of 6.98 percent of the f.o.b. invoice price on all shipments of this merchandise exported on or after January 1, 1991 and on or before December 31, 1991.

The Department also intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 6.98 percent of the f.o.b. invoice price on all shipments of the subject merchandise from Israel entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case briefs. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with section 355.38(e) of the Commerce regulations.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under § 355.38(c), are due.

The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: October 21, 1993.

Joseph A. Spetrini.

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–26600 Filed 10–27–93; 8:45 am]

BILLING CODE 3510–DS–P

Minority Business Development Agency

MEGA Center Applications: Los Angeles Metropolitan Area With Selected Services Throughout the States of Alaska, Arizona, California, Hawaii, Nevada, Oregon and Washington

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Cancellation notice.

SUMMARY: This notice cancels the round of competition initiated in notice Docket Number 930664–3164 beginning on page 38115 in the issue of Thursday, July 15, 1993. The July 15, 1993 notice solicited competitive applications for the Los Angeles Minority Enterprise Growth Assistance (MEGA) Center. A new round of competition will be initiated in the near future.

FOR FURTHER INFORMATION CONTACT: Loretta M. Young, Acting Deputy Director, Minority Business Development Agency, (202) 482–1015.

Dated: October 26, 1993.

Loretta M. Young,

Acting Deputy Director, Minority Business Development Agency.

[FR Doc. 93–26685 Filed 10–27–93; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

[I.D. 101393D]

Pacific Fishery Management Council; Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council (Council) will hold a one-day meeting of an ad-hoc work group to consider the use of weekly bag limits for future recreational ocean salmon fisheries north of Cape Falcon. The meeting will be held in conference room 440 of the Council office in Portland, OR (see address below) on October 20, 1993, and is scheduled to begin at 10 a.m.

The group will discuss the need for a weekly bag limit, the number of fish to allow per week when a bag limit is instituted, the need for consistency among subareas and whether the weekly bag limit should be considered on the basis of 7 consecutive days or on a calendar week basis. The recommendations of the group will be reported to the Council at its November meeting in Millbrae, California and may form the basis for Council management recommendations in 1994.

FOR FURTHER INFORMATION CONTACT: John Coon, Staff Officer (Salmon), Pacific Fishery Management Council, 2000 S.W. First Avenue, Suite 420, Portland, OR 97201; telephone: (503) 326–6352.

Dated: October 13, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93–26568 Filed 10–27–93; 8:45 am]

BILLING CODE 3510–22–P

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of Modification 2 to Permit No. 825 to the Columbia River Inter-Tribal Fish Commission.

On March 23, 1993 (58 FR 17383), the Columbia River Inter-Tribal Fish Commission (CRITFC) was issued Permit 825, under the authority of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing listed fish and wildlife (50 CFR parts 217–227), authorizing two of the five projects proposed in their application. On June 9, 1993 (58 FR 33434), an Amendment authorizing the remaining three projects proposed in their application was issued. On August 3, 1993 NMFS issued Modification 1 to Permit 825. Notice is hereby given that on October 20, 1993, as authorized by the provisions of the ESA, NMFS is issuing Modification 2 to Permit 825. The Modification increases the number of spring/summer chinok salmon authorized to be passive integrated transponder tagged, the total number of listed fish captured and andled would remain unchanged.

Issuance of this Modification, as required by the ESA, was based on the

finding that such documents: (1) Were applied for in good faith; (2) will not operate to the disadvantage of the listed species which is the subject of the Modification; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. The Modification was also issued in accordance with and are subject to parts 217–227 of title 50 CFR, the NMFS regulations governing listed species permits.

The applications, Permits and supporting documentation are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, room 13209, Silver Spring, MD 20910 (301–713–2322); and

Environmental and Technical Services Division, National Marine Fisheries Service, 911 North East 11th Ave., room 620, Portland, OR 97232 (503–230–5400).

Dated: October 20, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources.

[FR Doc. 93–26488 Filed 10–27–93; 8:45 am]

BILLING CODE 3510–22–M

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of receipt of an application for a scientific research permit, from the New York Cooperative Fish and Wildlife Research Unit (P555).

Notice is hereby given that the New York Cooperative Fish and Wildlife Research Unit, Department of Natural Resources at Cornell University has applied in due form for a permit to take endangered or threatened species as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) and the NMFS regulations governing listed fish and wildlife permits (50 CFR part 217–227).

The applicant requests authorization to conduct scientific research on listed shortnose sturgeon (*Acipenser brevirostrum*) in the Hudson River downstream of Albany, New York. Shortnose sturgeon would be collected and measured using standard fishery research gear. Subsets of the shortnose sturgeon collected would be tagged with external tags and passive integrated transponder (PIT) tags, and have samples taken of blood, tissue, and stomach contents. This research is requested for a duration of three years, through December, 1996.

Written data or views, or requests for a public hearing on this application, should be submitted to the Director, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Hwy., room 13229, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application summary are those of the Applicant and do not necessarily reflect the views of NMFS.

Documents submitted in connection with the above application are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Hwy., room 13229, Silver Spring, MD 20910 (301–713–2322); and

National Marine Fisheries Service, Northeast Region, One Blackburn Drive, Glouchester, MA 01930 (508–281–9250).

Dated: October 15, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources.

[FR Doc. 93–26588 Filed 10–27–93; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD Advisory Group on Electron Devices

ACTION: Notice.

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Tuesday, November 23, 1993.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 2011 Crystal Drive, Suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Warner Kramer, AGED Secretariat, 2011 Crystal Drive, suite 307, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. The microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with section 10(d) of Public Law No. 92–463, as amended, (5 U.S.C. App II 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: October 25, 1993.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–26548 Filed 10–27–93; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Readiness

ACTION: Notice of Advisory Committee meetings.

SUMMARY: The Defense Science Board Task Force on Readiness will meet in closed session on November 12, and November 23, 1993 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense (Acquisition) on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will provide advice, recommendations, and supporting rationale on the components of a Readiness Early Warning System to insure that our forces do not become "hollow," and, where deficiencies may begin to emerge, to suggest corrective actions.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II (1988)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly these meetings will be closed to the public.

Dated: October 25, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–26581 Filed 10–27–93; 8:45 am]

BILLING CODE 5000–04–M

Department of the Air Force

Record of Decision; High-Frequency Active Auroral Research Program

The Air Force has signed a Record of Decision (ROD) which finalizes the environmental impact analysis process and National Environmental Policy (NEPA) compliance for the High-frequency Active Auroral Research Program (HAARP). The Air Force decisions are based upon the program environmental analysis found in the environmental impact statement (EIS) which was filed with the EPA in July 1993. HAARP is a Congressionally mandated, joint Air Force/Navy endeavor aimed at studying properties and behavior of the ionosphere, with particular emphasis placed on being able to better understand and use it to enhance communications and surveillance systems for both civil and defense purposes. Final decisions allow for the entire system to be constructed on an Air Force owned site in Gakona, Alaska.

Questions regarding this program should be directed to: Mr John Hecksher, PL/GPIA, Phillips Laboratory, 29 Randolph Road, Hanscom AFB, MA 0173–3010 (617) 377–5121.

List of Subjects

Environmental protection, Environmental impact statement, HAARP, Record of Decision.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–26587 Filed 10–27–93; 8:45 am]

BILLING CODE 3910–01–W

Intent to Prepare an Environmental Impact Statement for Disposal and Reuse of Seven Air Force Bases

The United States Air Force (Air Force) will prepare seven environmental impact statements (EISs) to assess the potential environmental impacts of the disposal and reuse of the following bases identified for closure by Congress:

Gentile Air Force Station, Dayton, Ohio

Griffiss Air Force Base, Rome, New York

March Air Force Base, Riverside, California

Newark Air Force Base, Newark, Ohio

K.I. Sawyer Air Force Base, Marquette, Michigan

O'Hare International Airport Air Force Reserve Station, Chicago, Illinois

Plattsburgh Air Force Base, Plattsburgh, New York

These EISs will address the potential environmental impacts of disposal of the property to public or private entities, as well as the potential environmental impacts of all reasonable reuse alternatives.

To provide a forum for public officials and the community to provide information and comments, scoping meetings will be held in each community beginning in November 1993 and continuing through late 1994. Notice of the times and locations of these meetings will be provided at a later date, and publicized in each community and in the **Federal Register**. The purpose of these meetings is to: (1) Identify the environmental issues and concerns that should be analyzed to support base disposal and reuse; (2) solicit comments on the proposed action; and (3) solicit potential disposal and reuse alternatives for consideration in developing each EIS. In soliciting disposal and reuse alternatives, the Air Force will consider all reasonable alternatives offered by any federal, state or local government agency, and any federally-sponsored or private entity or individual. The resulting EISs will be considered in making disposal decisions that will be documented in the Air Force's Final Disposal Plan and Record of Decision for each base.

To ensure sufficient time to adequately consider public comments concerning environmental issues and disposal alternatives to be included in the EISs, the Air Force recommends that comments and reuse proposals be presented at the upcoming scoping meetings or forwarded to the address listed below at the earliest possible date. The Air Force will, however, accept additional comments at any time during the environmental impact analysis process.

Please direct written comments or requests for further information concerning the base disposal and reuse EISs to: Lt Col Gary P. Baumgartel, AFCEE/ESE, 8106 Chennault Road, Brooks AFB TX 78235–5318, (210) 536–3869.

List of Subjects

Environmental protection, Environmental impact statement, Notice of intent, Disposal and reuse, Defense Base Closure and Realignment Commission.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–26797 Filed 10–27–93; 8:45 am]

BILLING CODE 3910–01–W

Community College of the Air Force Meeting

The Community College of the Air Force (CCAF) Board of Visitors will hold a meeting on Friday, November 19, 1993 at 8:00 a.m., in the 81st Communications Squadron Conference Room (Bldg 1101), Keesler AFB, Mississippi. The meeting will be open to the public.

Purpose of the meeting is to review and discuss academic policies and issues relative to operation of the CCAF. Agenda items include a CCAF mission briefing, faculty credentials, and reaffirmation of CCAF.

For further information contact Captain Lynmari Tereyla, (205) 953–7937, Community College of the Air Force, Maxwell AFB, Montgomery, Alabama 36112–6655.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–26585 Filed 10–27–93; 8:45 am]

BILLING CODE 3910–01–W

Intent to Grant Exclusive Patent License

Pursuant to the provisions of part 404 of title 37, Code of Federal Regulations, which implements Public Law 96–517, the Department of the Air Force announces its intention to grant Delta Research Corporation, 1501 Wilson Boulevard, Arlington, Virginia 22209, a corporation of the State of Virginia, an exclusive license under United States Letters Patent No. 5,189,606, which matured from application Serial No. 07/702,345 filed 14 May 1991 in the names of Thomas J. Burns, Edward C. Page, Rita A. Gregory and George M. Pryor for "Totally Integrated Construction Cost Estimating, Analysis and Reporting System" and related pending patent application for "Remedial Action Cost Engineering and Requirements Environmental Estimating, Analysis and Reporting System" to Rita A. Gregory et al.

The license described above will be granted unless an objection thereto, together with a request for an opportunity to be heard, if desired, is received in writing by the addressee set forth below within sixty (60) days from the date of publication of this notice. Copies of the patent and application

may be obtained, on request, from the same addressee.

All communications concerning this notice should be sent to: Mr. Donald J. Singer, Chief, Patents Division, Air Force Legal Services Agency, HQ AFLSA/JACP, 1501 Wilson Blvd, room 817, Arlington, VA 22209–2403, Telephone No. (703) 696–9050.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 93–26586 Filed 10–27–93; 8:45 am]

BILLING CODE 3910–01–W

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board; Education

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meetings of the National Assessment Governing Board and its committees. This notice also describes the functions of the Board.

DATES: November 18, 19, and 20, 1993.

TIME: November 18, 1993—Design and Analysis Committee, and Subject Area Committee #1, 4 p.m.–6 p.m. November 19, 1993—Executive Committee, 7 a.m.–8:45 a.m.; Full Board, 9 a.m.–10 a.m.; Achievement Levels Committee, Reporting and Dissemination Committee, and Subject Area Committee #2, 10 a.m.–12 Noon; Full Board, 12 Noon–4:45 p.m. November 20, 1993 Full Board, 9 a.m. until adjournment, at approximately 12 Noon.

LOCATION: Miyako Hotel, 1625 Post Street, San Francisco, California.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, suite 825, 800 North Capitol Street NW., Washington, DC 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act (GEPA) as amended by section 3403 of the National Assessment of Educational Progress Improvement Act (NAEP Improvement Act), title III–C of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100–297), (20 U.S.C. 1221e–1).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons.

On November 18, from 4 p.m. until 6 p.m., two committees will be in session; the Design and Analysis Committee and the Subject Area Committee #1. The Design and Analysis Committee will hear updates on the following: 1994 Trial State Assessment, Amendments to Board Policy on Data Collection, 1994 Technical Review Panel Studies, and the draft Board policy on linking. The Subject Area Committee #1 will be briefed on plans for the 1994 U.S. History Special Study and on the recently-completed 1992 Reading Special Study. Revised timelines for the civics procurement also will be presented.

On November 19, the Executive Committee will meet from 7 a.m. until 8:45 a.m. Agenda items for this meeting include discussion of the NAEP reauthorization, plans for a joint NCES/NAGB conference, and a report on the New Standards Project meeting.

Also on November 19, the full Board will convene. From 9 a.m. until 10 a.m., there will be introduction of new Board members, review of the agenda, the Executive Director's Report, and an update on NAEP. From 10 a.m. until 12 Noon, there will be meetings of the Achievement Levels Committee, Reporting and Dissemination Committee, and the Subject Area Committee #2. The Achievement Levels Committee will hear a presentation on the 1994 Achievement Levels Setting Process, a report on standard setting conferences, and a discussion on the draft policy on achievement levels. Agenda items for the Reporting and Dissemination Committee include: A report on the findings from focus groups on NAEP reports; plans for release of 1992 NAEP writing results, trend results in several subject areas, and discussion of timelines and options for reporting 1994 NAEP results. The Subject Area Committee #2 will hear an update on the 1996 Arts Education Consensus Project and discuss issues raised during the recent round of public hearings. Plans for funding the arts development in FY 1994 will be discussed.

The full Board will reconvene at 1 p.m. until 4:45 p.m. The period from 1 p.m. until 3 p.m., will be devoted to reports and discussions about achievement levels—1993 and 1994. The November 19 proceedings of the Board will conclude with a presentation on ideas for improving NAEP reporting, and a discussion of new legislation regarding NAEP and NAGB.

On November 20, from 9 a.m. until 10 a.m., there will be a briefing on a planned joint conference on Educational Standard Setting, and a report by the National Academy of Education on the 1992 Trial State Assessment Evaluation. Beginning at 10 a.m., the Board will hear reports from its standing committees. This meeting of the National Assessment Governing Board will be adjourned at approximately 12 Noon.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, suite 825, 800 North Capitol Street, NW., Washington, DC, from 8:30 a.m. to 5 p.m.

Dated: October 22, 1993.

Roy Truby,

Executive Director.

[FR Doc. 93–26498 Filed 10–27–93; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2396, 2397, 2399, and 2400]

Central Vermont Public Service Corp.; Public Scoping Meeting and Site Visit

October 22, 1993.

The Federal Energy Regulatory Commission (Commission) has received applications for subsequent license (relicense) for four existing projects operated by the Central Vermont Public Service Corporation (CVPSC) on the Passumpsic River in northern Vermont, in or near St. Johnsbury. These projects include: Pierce Mills (No. 2396); Gage (No. 2397); Arnold Falls (No. 2399); and Passumpsic (No. 2400).

Upon review of the applications, supplemental filings, and intervenor submittals, the Commission staff has concluded that, given the location and interaction of the projects, staff will prepare one multiple project Environmental Assessment (EA) that describes and evaluates the probable impacts of the applicant's proposals and alternatives for all four projects.

One element of the EA process is scoping. Scoping activities are initiated early to:

- Identify reasonable alternative operational procedures and environmental enhancement measures that should be evaluated in the EA;
- Identify significant environmental issues related to the operation of the existing projects;

• Determine the depth of analysis for issues that will be discussed in the EA; and

• Identify resource issues that are of lesser importance and, consequently, do not require detailed analysis in the EA.

Scoping Meeting and Site Visit

Commission staff will conduct one evening public meeting for the Passumpsic River Projects. (Since there are only a few state and federal resource agencies concerned about the four projects, staff will not hold a separate afternoon meeting that focuses on resource agency concerns.)

All interested individuals, organizations, and agencies are invited to attend the planned meeting and help staff identify the scope of environmental issues that should and should not be analyzed in the Passumpsic River EA.

The scoping meeting for the Passumpsic River projects will be conducted at 7 p.m. on Tuesday, November 9, 1993, at the Lincoln Inn in St. Johnsbury, Vermont, 20 Hastings Street, 05819.

A site visit to the facilities of each project is scheduled for the next day, November 10, 1993. The purpose of this visit is for interested persons to observe existing area resources and site conditions, learn the locations of proposed new facilities, and discuss project operational procedures with representatives of CVPSC and the Commission. Details concerning the site visit will be available at the scoping meeting.

Procedures

The meeting, which will be recorded by a stenographer, will become part of the formal record of the Commission's proceeding on the Passumpsic River projects. Individuals presenting statements at the meeting will be asked to sign in before the meeting starts and to identify themselves for the record.

Concerned parties are encouraged to offer us verbal guidance during the public meeting. Speaking time allowed for individuals will be determined before the meeting, based on the number of persons wishing to speak and the approximate amount of time available for the session, but all speakers will be provided at least five minutes to present their views.

Scoping Meeting Objectives

At the scoping meeting, the staff will:

• Summarize the environmental issues tentatively identified for analysis in the EA;

• Identify resource issues that are of lessor importance and, therefore, do not require detailed analysis;

• Solicit from the meeting participants all available information, especially quantifiable data, concerning significant local resources; and

• Encourage statements from experts and the public on issues that should be analyzed in the EA.

Information Requested

Federal and state resource agencies, local government officials, interested groups, area residents, and concerned individuals are requested to provide any information they believe will assist the Commission staff to analyze the environmental impacts associated with relicensing the four projects. The types of information sought include the following:

• Data, reports, and resource plans that characterize the baseline physical, biological, or social environments in the vicinity of the projects.

• Information and data that helps staff identify or evaluate significant environmental issues.

Scoping information and associated comments should be submitted to the Commission no later than December 9, 1993. Written comments should be provided at the scoping meeting or mailed to the Commission, as follows: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

All filings sent to the Secretary of the Commission should contain an original and 8 copies. Failure to file an original and 8 copies may result in appropriate staff not receiving the benefit of your comments in a timely manner. See 18 CFR 4.34(h).

All correspondence should clearly show the following caption on the first page: FERC No. 2396: Pierce Mills, FERC No. 2397: Gage, FERC No. 2399: Arnold Falls, FERC No. 2400: Passumpsic.

Intervenors and interceders (as defined in 18 CFR 385.2010) who file documents with the Commission are reminded of the Commission's Rules of Practice and Procedure requiring them to serve a copy of all documents filed with the Commission on each person whose name is listed on the official service list for this proceeding. See 18 CFR 4.34(b).

For further information, please contact Jim Haimes at (202) 219–2780.

Lois D. Cashell,

Secretary.

[FR Doc. 93–26512 Filed 10–27–93; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 10567–001, et al.]

Hydroelectric Applications; Barrish and Sorenson Hydroelectric Co., et al.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection.

1 a. *Type of Application:* License.

b. *Project No.:* 10567–001.

c. *Date filed:* July 31, 1992.

d. *Applicant:* Barrish and Sorenson Hydroelectric Company.

e. *Name of Project:* Cispus River #4.

f. *Location:* On the Cispus River, in Lewis County, Washington.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Steve Barrish, 1004 S.E. 97th Avenue, Vancouver, WA 98664.

i. *FERC Contact:* Michael Spencer at (202) 219–2846.

j. *Deadline Date for Protests and Interventions:* November 29, 1993.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached paragraph D7.

l. *Description of Project:* The proposed project would consist of: (1) A 22-foot-high concrete and earth-filled dam; (2) a reservoir with a 108 acre-foot storage capacity; (3) a 14, 140-foot-long, 37 foot-wide earthen canal; (4) a 1,944-foot-long, 37-foot-wide flume; (5) a 3,023-foot-long, 12.5-foot-diameter penstock; (6) a powerhouse containing 3 generating units with a combined capacity of 22.3 MW and an estimated annual average generation of 86.2 GWh; and (7) an 11,541-foot-long transmission line; and (8) appurtenant facilities.

m. *Purpose of Project:* Project power would be sold.

n. *This notice also consists of the following standard paragraphs:* A2, A9, B1, D7.

2 a. *Type of Application:* Subsequent License.

b. *Project No.* 2275–001.

c. *Date filed:* December 30, 1991.

d. *Applicant:* Public Service Company of Colorado.

e. *Name of Project:* Salida Hydroelectric.

f. *Location:* On the South Fork Arkansas River in Chaffee County, Colorado, partially within San Isabel National Forest.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Timonthy J. Flanagan, Kelly, Stansfield & O'Donnell, 1225–17th Street, suite 2500, Denver, CO 80202–5533, (303) 825–3534.

i. *FERC Contact:* James Hunter at (202) 219–2839.

j. *Deadline Date:* 60 days from the issuance date of this notice. (November 30, 1993).

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D10.

l. *Description of Project:* The project consists of two developments, as described below.

Salida No. 1, consisting of: (1) A 10-foot-high, 50-foot-long dam impounding the 3-acre-foot Garfield Reservoir; (2) a 26 to 24-inch-diameter, 4,806-foot-long gravity pipeline; (3) a 29-foot-high, 200-foot-long dam impounding the 13-acre-foot Fooses Reservoir; (4) a 30 to 26-inch-diameter, 8,080-foot-long penstock; and (5) Powerhouse No. 1 containing a 750-kW generating unit.

Salida No. 2, consisting of: (1) a 16-foot-high dam impounding the 10-acre-foot Forebay No. 2; (2) a 34 to 26-inch-diameter, 11,668-foot-long penstock; and (3) Powerhouse No. 2 containing a 560-kW generating unit.

The project also includes a 25-kV, 2-mile-long transmission line and appurtenant facilities. The average annual generation is 7.67 GWh. The applicant is not proposing any changes to the existing project works.

m. *Purpose of Project:* Power generated at the project is delivered to customers within the applicant's service area.

n. *This notice also consists of the following standard paragraphs:* A4 and D10.

o. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the Public Service Company of Colorado's office at 1225–17th Street, Denver, Colorado, (303) 329–1578.

3 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11416–000.

c. *Date filed:* May 17, 1993.

d. *Applicant:* Ryegrass Power, Inc.

e. *Name of Project:* Ryegrass Water Power Project.

f. *Location:* On the Richfield Canal and Big Wood River in Lincoln and Blaine Counties, Idaho, near the town of Shoshone. T2S, R18E, sections 30, 33, 34, 3 and 4. Boise Meridian.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* John J. Straubhar, P.E., President, Ryegrass Power, Inc., P.O. Box 820, 1061 Blue Lakes Blvd. No. 210, Twin Falls, ID 83303–0820, (208) 736–8255.

i. *FERC Contact:* Ms. Deborah Frazier-Stutely, (202) 219–2842.

j. *Comment Date:* December 8, 1993.

k. *Description of Project:* The proposed project would consist of: (1) An existing diversion dam, approximately 15 feed high and between 50 to 100 feet long on the Big Wood River; (2) approximately 6 miles of the existing Richfield canal, where 2 miles will be enlarged to accommodate additional flows; (3) a 60-foot-long concrete check structure consisting of radial gates, trash screens and trash racks within the existing Richfield Canal; (4) a 2,800-foot-long penstock; (5) a powerhouse containing three generating units with a combined installed capacity of 2,100 kW, producing an average annual energy output of 8.26 million kWh; (6) a 46–kV, ⅛-mile long transmission line tying into an existing line; and (7) a .25-mile-long access road.

The applicant estimates the cost of the studies to be conducted under the preliminary permit would be $18,600. No new roads will be needed for the purpose of conducting these studies.

l. *Purpose of Project:* Project power would be sold to a local utility.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

4 a. *Type of Application:* New License.

b. *Project No:* 1862–009.

c. *Date filed:* December 26, 1991.

d. *Applicant:* City of Tacoma, Washington.

e. *Name of Project:* Nisqually Hydroelectric Project.

f. *Location:* On the Nisqually River in Pierce, Thurston, and Lewis Counties, Washington, near the town of Eatonville. The project occupies lands within the Mt. Baker-Snoqualmie National Forest (Willamette Meridian).

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:*

Garth Jackson, P.E., Resource Development Coordinator, City of Tacoma, Dept. of Public Utilities Light Division, P.O. Box 11007, Tacoma, WA 98411, (206) 593–8298

Ms. Pamela Klatt, Project Manager, Harza Northwest, Inc., P.O. Box C–98009, (206) 882–2455.

i. *FERC Contact:* Surender M. Yepuri, P.E., (202) 219–2847.

j. *Deadline Date:* Sixty days from the issuance date of this notice. (December 6, 1993).

k. *Status of Environmental Analysis:* The application has been accepted for filing and is ready for environmental analysis at this time—see attached standard paragraph D10. Comments, recommendations, terms and conditions, or prescriptions pertaining to whitewater boating are being deferred because further information is due from the applicant; however, they should be filed with the Commission no later than February 7, 1994.

(Note: The applicant is required to provide a copy of the requested information to all entities consulted under § 16.8 of the regulations and to all parties on the service list).

l. *Description of Project.* The existing project would consist of two developments. The Adler Development would consist of: (1) the 285-foot-high, 1,600-foot-long concrete arch Alder dam; (2) the 3,065 acre Alder reservoir with storage capacity of 161,457 acre-feet with a surface elevation of 1,140 feet msl; (3) a reinforced concrete spillway channel consisting of four 32-foot-wide spillway gates; (4) two 10-foot-diameter steel penstocks located within the dam, each with four removable trashracks; (5) a 130-foot-long, 53-foot-wide reinforced concrete powerhouse, located at the base of Alder Dam, containing two vertical shaft hydraulic-turbine driven generators with a combined capacity of 50,000 kW; (6) a switchyard; (7) two 115-kV, 3-mile-long transmission lines terminating at a Tacoma Public Utilities line.

The average annual energy generation at the Alder Development is 228,000,000 kWh.

The LaGrande Development would consist of: (1) The 192-foot-high, 710-foot-long concrete gravity LaGrande Dam at elevation 942 feet msl, 1.5 miles downstream of the Alder Development; impounding, (2) the 45 acre LaGrande Reservoir with a storage capacity of 2,700 acre-feet with a surface elevation of 935 feet msl; (3) a 164-foot-long spillway consisting of four 23-feet-high, 32-foot-long radial gates; (4) a 78-inch-diameter overflow pipe with a 66-inch Howell-Bunger valve; (5) a 14.5-foot-diameter, 6,400-foot-long under ground tunnel; (6) a surge tank at end of tunnel; (7) a 13.5-foot-diameter steel pipe; ending at (8) a 10-foot-diameter manifold branching into (9) four 5-foot-diameter penstocks; (10) a 11.5-foot-diameter penstock; (11) powerhouse containing five generating units with a combined capacity of 69,000 kW; (12) a tailrace; (13) a 115-kV switchyard; (14) two 115-kV, 26.2-mile-long transmission line terminating at the Cowlitz Substation.

The average annual generation at the LaGrande Development is 345,000,000 kWh.

m. *Purpose of Project:* Project power would be sold to a local utility.

n. *This notice also consists of the following standard paragraphs:* A4 and D10.

o. *Available Locations of Applications:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NW., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the applicant's office (see item (h) above).

5 a. *Type of Application:* Subsequent License.

b. *Project No.:* 2587–002.

c. *Date Filed:* December 18, 1991.

d. *Applicant:* Northern States Power Company.

e. *Name of Project:* Superior Falls Hydro Project.

f. *Location:* On the Montreal River in Iron County, Wisconsin and Gogebic County, Michigan.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Anthony G. Schuster, Vice President, Power Supply, Northern States Power Company, 100 North Barstow Street, P.O. Box 8, Eau Claire, WI, (715) 839–2621.

i. *FERC Contact:* Ed Lee (202) 219–2809.

j. *Deadline Date:* See paragraph D9. (December 14, 1993).

k. *Status of Environmental Analysis:* This application has been accepted for filing and is ready for environmental analysis at this time—see attached paragraph D9.

l. *Description of Project:* The project as licensed consists of the following: (1) Two existing concrete gravity non-overflow sections, a total length of approximately 105 feet long, with an intake structure for a conduit including a metal trashrack and a mechanically operated timber headgate; (2) an existing concrete gravity gated spillway section, about 90 feet long, containing (a) two steel Tainter gates, approximately 16 feet long by 18 feet high, and (b) three timber Tainter gates, approximately 12 feet long by 9 feet high; (3) an existing concrete gravity overflow weir section, about 45 feet long, containing three concrete bulkheaded overflow weir bays; (4) an existing reservoir with a surface area of 16.9 acres and a total storage volume of 80.9 acre-feet at the normal maximum surface elevation of 740.0 feet USGS; (5) an existing 84 inch diameter reinforced concrete pipe conduit, approximately 1,697 feet long, conveying water from the intake structure to the surge tank; (6) an existing 28 foot diameter surge tank with a concrete base and lower section (13 feet high) and a steel upper section extending 28 feet above the concrete; (7) two existing 54 inch diameter steel penstocks, each 190 feet long; (8) an existing reinforced concrete powerhouse, approximately 32 feet by 62 feet, containing (a) two horizontal Francis turbines with a combined plant hydraulic capacity of 220 cfs, manufactured by Allis-Chalmers and rated at 1,250 hp each, and (b) two General Electric generators, rated at 660 kW each, providing a combined plant rating of 1,320 kW; (9) an existing 2.4 KV transmission line, 200 feet long; and (10) existing appurtenant facilities. No changes are being proposed. The applicant estimates the average annual generation for this project would be 12,018 MWH. The dam and existing project facilities are owned by the applicant.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. *This notice also consists of the following standard paragraphs:* A4 and D9.

o. *Available Location of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Northern States Power Company, 100 North Barstow Street, Eau Claire, WI or calling (715) 839–2621.

6 a. *Type of Application:* Approval of Compensation Plan for Homeowners in Weldon Road Area, Owners of Longwood Lake Cabins, and the Longwood Lake Cabin Owners Association, Inc.

b. *Project No:* 9401–023—Article 416.

c. *Date Filed:* October 4, 1993.

d. *Applicant:* Halecrest Company.

e. *Name of Project:* Mt. Hope Pumped Storage.

f. *Location:* Mt. Hope Lake, Morris County, New Jersey.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Paul Rodzianko, Executive Vice President, 627 Mt. Hope Road, Wharton, NJ 07885–2837, (201) 287–2272.

i. *FERC Contract:* Heather Campbell, (202) 219–3097.

j. *Comment Date:* November 29, 1993.

k. *Description of Project:* The Halecrest Company, licensee for the Mt. Hope Project, requests approval of a plan to compensate homeowners in the Weldon Road area, owners of Longwood Lake Cabins, and the Longwood Lake Cabin Owners Association, Inc. Compensation is required because of the construction of project transmission lines.

l. *This notice also consists of the following standard paragraphs:* B, C1, and D2.

7 a. *Type of Application:* Major Relicense.

b. *Project No.:* 2705–003.

c. *Date filed:* September 30, 1992.

d. *Applicant:* Seattle City Light.

e. *Name of Project:* Newhalem Creek.

f. *Location:* On Newhalem Creek in Whatcom County, Washington, wholly within the Ross Lake National Recreation Area.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Roberta Palm Bradley, Acting Superintendent, Seattle City Light, 1015 Third Avenue, Seattle, WA 98104–1198, (206) 684–3200.

i. *FERC Contact:* James Hunter at (202) 219–2839.

j. *Deadline for interventions and protests:* December 22, 1993.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached paragraph E1.

l. *Description of Project:* The existing project consists of: (1) A 45-foot-long, 10-foot-high concrete overflow dam, crest elevation 1,012 feet, across Newhalem Creek with a combination sluiceway and intake structure; (2) water conveyance facilities including a 5-foot-square, 54.5-foot-long, vertical rock shaft, a 6-foot by 7-foot, 2,452-foot-long rock tunnel, and a 33-inch-diameter, 925-foot-long penstock; (3) a 30-foot-wide, 56-foot-long, wood-framed powerhouse containing a generating unit with an installed capacity of 2.3 MW; (4) two timber flumes that discharge into a 350-foot-long tailrace returning project flows to the Skagit River; (5) a 4,387-foot-long, 7.2-kV transmission line tying into the Gorge powerhouse of Project No. 553; (6) about 2.5 miles of access roads to the diversion and powerhouse; and (7) appurtenant facilities.

m. *Purpose of Project:* The average annual generation of the Newhalem Creek project is 18 GWh. Power generated at the project is delivered to customers within the applicant's service area.

n. *This notice also consists of the following standard paragraphs:* B1 and E1.

o. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Seattle City Light's offices at 1015 Third Avenue, Seattle, Washington.

8 a. *Type of Application:* Minor License.

b. *Project No.:* 11346–001.

c. *Date filed:* December 21, 1992.

d. *Applicant:* FORIA Hydro Corporation.

e. *Name of Project:* Fort Dodge Mill Dam Project.

f. *Location:* On the Des Moines River, in Webster County, Iowa.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Thomas J. Wilkinson, Jr., President, Lincolnway Development Company, 300 American Building, Cedar Rapids, Iowa 52401–1219, (319) 366–4990.

i. *FERC Contact:* Mary C. Golato, (202) 219–2804.

j. *Deadline for Interventions and Protests:* December 17, 1993.

k. *Status of Environmental Analysis:* This application has been accepted for filing but is not ready for environmental analysis at this time—see attached paragraph D8.

l. *Description of Project:* The proposed project consists of the following features: (1) An existing concrete dam 372 feet long and 18 feet high; (2) an existing reservoir with a surface area of 90 acres, a negligible storage capacity, and a normal surface elevation of approximately 990 feet above mean sea level; (3) an existing powerhouse containing two new turbine-generator units at a total installed capacity of 1,260 kilowatts; (4) a proposed 13.8-kilovolt transmission line 2,400 feet long; and (5) appurtenant facilities. The applicant estimates that the total average annual generation would be 8,168,352 kilowatt hours. The dam is owned by the City of Fort Dodge.

m. *Purpose of the Project:* All project energy generated would be sold by the applicant.

n. *This notice also consists of the following standard paragraphs:* A2, A9, B1, and D8.

o. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street NE., room 3104, Washington, DC 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Mr. Thomas J. Wilkinson, Jr., Lincoln Development Company, 300 American Building, Cedar Rapids, Iowa, 52401–1219, (319) 366–4990.

9. a. *Type of Application:* Major License.

b. *Project No.:* 11408–000.

c. *Date filed:* April 28, 1993.

d. *Applicant:* Niagara Mohawk Power Corporation.

e. *Name of Project:* Salmon River Hydroelectric Project.

f. *Location:* On the Salmon River in the Towns of Redfield and Orwell, Oswego County, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. § 791 (a)—825(r).

h. *Applicant Contact:* Jerry L. Sabattis, P.E., Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, NY 13202, (315) 474–1511.

i. *FERC Contact:* Mary C. Golato, (202) 219–2804.

j. *Deadline for Interventions and Protests:* December 17, 1993.

k. *Status of Environmental Analysis:* This application has been accepted for filing but is not ready for environmental analysis at this time—see attached paragraph D8.

l. *Description of Project:* The proposed project consists of two developments progressing downstream of the Salmon River: Bennetts Bridge and Lighthouse Hill.

The Bennetts Bridge development consists of: (1) An existing dam 607 feet long and 45 feet high; (2) an existing reservoir 6 miles long; (3) an existing 10,000-foot-long conduit system; (4) an existing powerhouse containing four existing turbine-generator units with a total installed capacity of approximately 31,500 kilowatts (Kw); (5) three existing 12-kilovolt (Kv) electric transmission lines; and (6) appurtenant facilities.

The Lighthouse Hill development, located approximately 1 mile downstream of the Bennetts Bridge powerhouse, consists of: (1) an existing 382-foot-long concrete gravity dam; (2) an existing 4,300-foot-long reservoir; (3) three existing 17-foot-wide by 8-foot-high by 62-foot-long concrete penstocks; (4) an existing powerhouse containing two existing turbine-generator units and one proposed turbine-generator unit for a total installed capacity of 8,200 Kw; (5) an existing 400-foot-long, 12-Kv transmission line; and (6) appurtenant facilities. The average annual generation for both developments of the project is 108,000,000 kilowatt hours. The owner of the project facilities is the Niagara Mohawk Power Corporation.

m. *Purpose of the Project:* All project energy generated would be utilized by the applicant for sale.

n. *This notice also consists of the following standard paragraphs:* A2, A9, B1, and D8.

o. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street NE., room 3104, Washington, DC 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Mr. Jerry L. Sabattis, P.E., Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, NY 13202 (315) 474–1511.

10a. *Type of Application:* Surrender of License.

b. *Project No:* 7270–013.

c. *Date Filed:* October 4, 1993.

d. *Applicant:* Northern Wasco County People's Utility District.

e. *Name of Project:* White River.

f. *Location:* The project would have been located on the White River in Wasco County, Oregon, near Maupin, in. T. 4 S., R. 14 E., Willamette Meridian.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Harold E. Haake, Special Projects Development Manager, Northern Wasco County People's Utility District, P.O. Box 621, The Dalles, OR 97058, (503) 296–2226.

i. *FERC Contact:* Mr. Mark R. Hopper, (202) 219–2680.

j. *Comment Date:* December 3, 1993.

k. *Description of Project:* No construction has occurred. The licensee states that the project is economically infeasible.

l. *This notice also consists of the following standard paragraphs:* B, C1, and D2.

11a. *Type of Application:* Declaration of Intention.

b. *Docket No.:* EL93–63–000.

c. *Date Filed:* September 30, 1993.

d. *Applicant:* Roger Gordon DeClements & Cynthia Marie Taylor-DeClements.

e. *Name of Project:* Bacus Road Hydro Project (WA).

f. *Location:* Powell Creek, Tributary to Skagit River, Skagit County Sedro-Woolley, Washington.

g. *Filed Pursuant to:* Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Roger Gordon DeClements & Cynthia Marie Taylor-DeClements, 2641 Bacus Road, Sedro-Woolley, WA 98284.

i. *FERC Contact:* Hank Ecton, (202) 219–2678.

j. *Comment Date:* December 6, 1993.

k. *Description of Project:* The proposed Bacus Road Hydro Project will consist of: (1) A 500-foot-long, 6-inch-diameter pipe, with the intake at the top of a waterfall and the discharge at the base of the waterfall; (2) a 6-inch impulse turbine, and a 5.5 kilowatt generator; and (3) appurtenant facilities.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Purpose of Project:* Applicant intends to use all energy produced at a new residence under construction.

m. *This notice also consists of the following standard paragraphs:* B, C1, and D2.

Standard Paragraphs

A2. Development Application—Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be flied, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit will be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protests, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

B1. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in according with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027, at the above-mentioned address. A copy of nay notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to:

The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each

representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D7. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," or "COMPETING APPLICATION;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

D8. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," or "COMPETING APPLICATION;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

D9. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (December 14, 1993 for Project No. 2587–002). All reply comments must be filed with the Commission within 105 days from the date of this notice. (January 26, 1994 for Project No. 2587–002).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (November 30, 1993 for Project No. 2275–001; December 6, 1993 for Project No. 1862–009). All reply comments must be filed with the Commission within 105 days from the date of this notice. (January 14, 1994 for Project No. 2275–001; January 19, 1994 for Project No. 1862–009).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their

evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

E1. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filing must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Dated: October 25, 1993, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 93–26545 Filed 10–27–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–126–004]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

October 22, 1993.

Take notice that on October 19, 1993, Algonquin Gas Transmission Company (Algonquin), tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, 2 Sub Original Sheet No. 94, with an effective date of July 1, 1993.

Algonquin states that the sole purpose of this filing is to allocate the balance of its Account Nos. 191 and 186 to be recovered pursuant to the mechanism specified in the Commission's October 4 order in Docket No. RS92–28–000. Algonquin also states that the October 4 order required that the direct billing of the balance in its Account Nos. 191 and 186 be effective July 1, 1993.

Algonquin states that copies of this tariff filing were mailed to all customers of Algonquin and interested state commissions shown on Algonquin's system.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before October 29, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–26513 Filed 10–27–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–32–000]

Florida Gas Transmission Co.; Request Under Blanket Authorization

October 22, 1993

Take notice that on October 20, 1993, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002 filed in Docket No CP94–32–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon and transfer by sale to Crescent City Natural Gas (Crescent City) a minor natural gas pipeline and related appurtenant facilities located in Putnam County, Florida, under FGT's blanket certificate issued in Docket No. CP82–553–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

FGT proposes to abandon and transfer by sale to Crescent City approximately .96 miles of 2.5-inch pipeline located downstream of the existing meter station, said to serve as a FGT delivery point to Crescent City, under FGT's Rate Schedule SGS.

FGT states that Crescent City would use the subject line as part of its existing general distribution system. FGT states further that no services would be terminated nor would any facilities be taken out of service as a result of the proposal.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93–26510 Filed 10–27–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–23–000]

Midwestern Gas Transmission Co.; Tariff Filing

October 22, 1993.

Take notice that on October 14, 1993, Midwestern Gas Transmission Company (Midwestern), filed its Substitute Original Tariff Sheets Nos. 5, 65, and 97 with a proposed effective date of September 1, 1993. Midwestern states that the proposed changes are to correct omissions and errors in its previously filed restructured tariff and thus requests an effective date to coincide with its implementation of restructured services pursuant to Order No. 636 *et al.*

Midwestern states that Substitute Original Sheet No. 5 is being revised to reduce its rate for fuel and gas lost and unaccounted for to .5% for transportation that occurs entirely by displacement and to 0% for

displacement transactions where the receipt point is the same as the delivery point. Substitute Original Sheet No. 65 is being revised to add language to section 6 of article III of the General Terms and Conditions to provide IT shippers paying the maximum rate "No-Bump" protection from IT shippers offering the maximum IT rate after the beginning of the month. Finally, on Substitute Original Sheet No. 97, Midwestern states that it would like to clarify that the reference in section 8(a) of article XXI of the General Terms and Conditions to releases of "less than thirty days" is intended to mean "less than one calendar month" and to clarify that section 8(b)(i) requiring that bidding on releases for a term of less than three months close 48 hours prior to the beginning of the effective release period, should require that bidding for such releases close two business days prior to the beginning of the effective release period.

Midwestern also submits its Substitute First Revised Sheet No. 5 to reflect a change in the ACA charge as well as the changes proposed above to become effective October 1, 1993. Midwestern states that it filed to adjust its ACA charge on August 31, 1993 in Docket No. TM94-1-5 with a proposed effective date of October 1, 1993. The adjustment consists of an increase of $ 0025 in the commodity rate.

Midwestern states that copies of this filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to protest with reference to said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with section 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before October 29, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Copies of this filing are on file and available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-26514 Filed 10-27-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP94-33-000]

Ozark Gas Transmission System; Application

October 22, 1993.

Take notice that on October 20, 1993, Ozark Gas Transmission System (Ozark), 1700 Pacific Avenue, LB-10, Dallas, Texas 75201, filed in Docket No. CP94-33-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities to connect a gas well to its system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Ozark states that it proposes to construct and operate a tap and metering facilities to connect the Sonat Kirkpatrick No. 2 well to its Carter lateral in Franklin County, Arkansas. Ozark asserts that the connection of these facilities would not increase the throughput in the Carter lateral, but would serve to supplement and offset natural declines in sources of supply presently connected to the Carter lateral.

Ozark estimates the cost of the facilities to be $16,300, which it will finance from equity funds on hand.

Any person desiring to be heard or to make any protests with reference to said application should on or before November 10, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Ozark to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93-26511 Filed 10-27-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM94-1-6-001]

Sea Robin Pipeline Co.; Proposed Changes in FERC Gas Tariff

October 22, 1993.

Take notice that on October 19, 1993, Sea Robin Pipeline Company (Sea Robin) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised sheets with a proposed effective date of November 1, 1993:

First Revised Sheet No. 7

First Revised Sheet No. 8

First Revised Sheet No. 9

Sea Robin states that the aforesaid tariff sheets implement the Commission's revised Annual Charge Adjustment (ACA) of .26¢ per Mcf. Sea Robin states that this represents an increase of .03¢ per Mcf in the ACA charge from the current level of .23¢ per Mcf. Sea Robin has already implemented this change effective October 1, 1993 in Original Volume No. 1 to its FERC Gas Tariff. Sea Robin is filing such sheets to implement the changes in First Revised Volume No. 1 to its FERC Gas Tariff which will go into effect on November 1, 1993.

Sea Robin states that copies of Sea Robin's filing will be served upon all of Sea Robin's customers, interested commissions and interested parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (§ 385.211). All such protests should be filed on or before October 29, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Copies of this filing

are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–26515 Filed 10–27–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–1–8–001]

South Georgia Natural Gas Co.; Report of Refunds

October 22, 1993.

Take notice that on October 19, 1993, South Georgia Natural Gas Company (South Georgia) tendered for filing its report of refunds made in accordance with the Commission's order issued September 30, 1993, in Docket No. TM94–1–1–000, *et al.* The Commission's order noted that South Georgia had not filed to reduce its ACA charge for fiscal year 1993 to $.0023 from $.0024 per Mcf and directed South Georgia to refund, with interest, any excess ACA surcharges collected since October 1, 1992, and to file the related refund report with the Commission.

South Georgia asserts that it owes no refunds to its former sales or transportation customers as a result of the reduction in the Annual Charge Adjustment (ACA) charge to $.0023 per Mcf for the Commission's fiscal year 1993 since no excess ACA surcharges were paid. South Georgia indicates that since South Georgia became a transportation-only pipeline as of May 5, 1992, it has not been billed on an Mcf basis since that date. In addition, after rounding, the ACA charge for South Georgia's transportation customers for fiscal years 1992 and 1993 remained at $.0023 per MMbtu.

South Georgia states that copies of the filing are being made available in South Carolina's offices in Birmingham, Alabama, and are being mailed to all of South Georgia's customers, interested state commissions and interested parties as well as parties of record in Docket No. TM94–1–8–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (§ 385.211). All such protests should be filed on or before October 29, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–26516 Filed 10–27–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–31–000]

Williams Natural Gas Co.; Request Under Blanket Authorization

October 22, 1993.

Take notice that on October 19, 1993, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP94–31–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to install new measuring and appurtenant facilities to replace those currently providing service to the City of Neodesha, Kansas, (Neodesha) for Fiberglass Engineering, Inc., (Fiberglass) under WNG's blanket certificate issued in Docket No. CP82–479–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

WNG proposes to install larger measuring and appurtenant facilities for Neodesha/Fiberglass. It is stated that the volume of gas delivered is expected to increase from 13,686 Mcf annually to 13,850 Mcf the first year and 15,940 Mcf by the fifth year with an anticipated peak day volume of 380 Mcf. WNG states that the estimated cost of construction is $2,200, which will be reimbursed by Neodesha/Fiberglass.

WNG states that this change is not prohibited by an existing tariff and that it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93–26509 Filed 10–27–93; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 93–108–NG]

North American Resource Co. Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of an order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting North American Resource Company (NARCo) blanket authorization to import up to 10.95 Bcf of natural gas from Canada over a two-year term, beginning on the date of first import delivery after November 30, 1993, the date NARCo's current authorization expires.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 20, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–26579 Filed 10–27–93; 8:45 am]

BILLING CODE 6450–01–P

[FE Docket No. 93–103–NG]

Washington Energy Exploration, Inc.; Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Washington Energy Exploration, Inc. blanket authorization to import up to 74 Bcf of natural gas from Canada over a two-year period beginning on the date of the first delivery.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585,

(202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on October 18, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–26577 Filed 10–27–93; 8:45 am]

BILLING CODE 6450–01–P

[FE Docket No. 93–101–NG]

Wisconsin Power and Light Co.; Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has granted Wisconsin Power and Light Company (WP&L) authorization to import up to 11,758 Mcf per day of Canadian natural gas for ten years beginning November 1, 1993. This gas would be imported from ProGas Limited and Western Gas Marketing Limited as a result of ANR Pipeline Company's unbundling of its gas supply arrangements under the restructuring requirements of Order 636 issued by the Federal Energy Regulatory Commission.

WP&L's order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 18, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–26578 Filed 10–27–93; 8:45 am]

BILLING CODE 6450–01–P

Office of Hearings and Appeals

Issuance of Proposed Decision and Order During the Week of October 4 through October 8, 1993

During the week of October 4 through October 8, 1993, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR part 205, subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays.

Dated: October 22, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

Fletcher & Assoc., LTD. Enosburg Falls, VT, LEE–0051 Reptg. Requirements

Fletcher & Associates, Ltd. (Fletcher) filed an Application for Exception from the provision of filing Form EIA–782B entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." The exception request, if granted, would permit Fletcher to be permanently exempted filing Form EIA–782B. On October 8, 1993, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 93–26580 Filed 10–27–93; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 93–1280]

Advisory Committee on Advanced Television Service

October 25, 1993.

A meeting of the Advisory Committee on Advanced Television Service will be held on: November 8, 1993, 2 p.m., Commission Meeting Room (room 856), 1919 M Street, NW., Washington, DC.

The agenda for the meeting will consist of:

1. Introductory Remarks of Advisory Committee Chairman Richard E. Wiley
2. Adoption of Minutes of the Last Meeting
3. Remarks by FCC Chairman and/or Commissioners
4. Report of the Technical Subgroup
5. Future Work Plans
6. Financial Report
7. Other Business
8. Adjournment

All interested persons are invited to attend. Those interested also may submit written statements at the meeting. Oral statements and discussion will be permitted under the direction of the Advisory Committee Chairman. Shorter notice of this meeting is provided because rapidly developing technical advances are stayed pending Advisory Committee authorization.

Any questions regarding this meeting should be directed to Richard E. Wiley at (202) 429–7010 or William H. Hassinger at (202) 632–6460.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93–26663 Filed 10–27–93;10:47 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

The Century South Banks, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice

in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 19, 1993.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. The Century South Banks, Inc., Dahlonega, Georgia; to acquire 100 percent of the voting shares of The Martin Bank, Martin, Tennessee, and First National Bank of Polk County, Copperville, Tennessee.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. First Community Bancorp, Inc., Auburn, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Auburn Banking Company, Auburn, Kentucky.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Greater Metro Bank Holding Company, Aurora, Colorado; to acquire 100 percent of the voting shares of Montbello Bankcorp, Inc., Denver, Colorado, and thereby indirectly acquire Citywide Bank of Denver, Denver, Colorado.

Board of Governors of the Federal Reserve System, October 22, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-26539 Filed 10-27-93; 8:45 am]

BILLING CODE 6210-01-F

SunTrust Banks, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than November 19, 1993.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. SunTrust Banks, Inc., Atlanta, Georgia, and Sun Banks, Inc., Orlando, Florida; to acquire Regional Investment Corporation, Tallahassee, Florida, and its wholly-owned subsidiary, Andrew Jackson Savings Bank, Tallahassee, Florida, and Bank's two nonbank subsidiaries, Premium Assignment Corporation, Tallahassee, Florida, and Baker Mortgage Loans, Inc., Fort Walton Beach, Florida, and thereby engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y and engage in lending activities pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted in the State of Florida.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Keeco, Inc., Chicago, Illinois; Northland Insurance Agency, Inc., Chicago, Illinois; and Northern Illinois Financial Corporation, Wauconda, Illinois; to acquire certain assets and liabilities of the secondary mortgage operation at American National Bank and Trust Company of Waukegan, Waukegan, Illinois, and engage *de novo* through American Suburban Mortgage Corporation, Waukegan, Illinois, in the origination and sale of residential first mortgage loans to investors consisting of national and regional financial institutions pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted in Northern Illinois.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Neosho Bancshares, Inc., Neosho, Missouri; and Neosho Bancshares Employees Stock Ownership Plan, Neosho, Missouri; to acquire 33.3 percent of the shares of DigiSource, Inc., Fayetteville, Arkansas, and thereby engage in providing data processing services through a joint venture pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 22, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-26540 Filed 10-27-93; 8:45 am]

BILLING CODE 6210-01-F

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

Harry S. Truman Scholarship Nomination Forms

AGENCY: Harry S. Truman Scholarship Foundation; Closing date for Nominations from Eligible Institutions of Higher Education.

ACTION: Notice

SUMMARY: Notice is hereby given that, pursuant to the authority contained in the Harry S. Truman Memorial Scholarship Act, Pub. L. 93–642 (20 U.S.C. 2001), nominations are being accepted from eligible institutions of higher education for Truman Scholarships. Procedures are prescribed at 45 CFR part 1801.

In order to be assured consideration, all documentation in support of nominations must be received by the Truman Scholarship Review Committee, 2255 N. Dubuque Road, P.O. Box 168, Iowa City, IA 52243 no later than December 2, 1993 from four-year institutions or February 15, 1994 from two-year institutions.

Dated: 19 October 1993.

Louis H. Blair,

Executive Secretary.

[FR Doc. 93–26505 Filed 10–27–93; 8:45 am]

BILLING CODE 6820–AB–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

1994 Cost-of-Living Increase and Other Determinations

AGENCY: Social Security Administration, HHS.

ACTION: Notice.

SUMMARY: The Secretary has determined—

(1) A 2.6 percent cost-of-living increase in Social Security benefits under title II, effective for December 1993;

(2) An increase in the Federal Supplemental Security Income (SSI) monthly benefit amounts under title XVI for 1994 to $446 for an eligible individual, $669 for an eligible individual with an eligible spouse, and $223 for an essential person;

(3) The average of the total wages for 1992 to be $22,935.42;

(4) The Old-Age, Survivors, and Disability Insurance (OASDI) contribution and benefit base to be $60,600 for remuneration paid in 1994 and self-employment income earned in taxable years beginning in 1994;

(5) The monthly exempt amounts under the Social Security retirement earnings test for taxable years ending in calendar year 1994 to be $930 for beneficiaries age 65 through 69 and $670 for beneficiaries under age 65;

(6) The dollar amounts ("bend points") used in the benefit formula for workers who become eligible for benefits in 1994 and in the formula for computing maximum family benefits;

(7) The amount of earnings a person must have to be credited with a quarter of coverage in 1994 to be $620;

(8) The "old-law" contribution and benefit base to be $45,000 for 1994; and

(9) The OASDI fund ratio to be 107.3 percent for 1993.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Kunkel, Office of the Actuary, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–3013. A summary of the information in this announcement is available in a recorded message by telephoning (410) 965–3053. This telephone message will be updated to reflect changes to the cost-of-living benefit increase and other determinations.

SUPPLEMENTARY INFORMATION: The Secretary is required by the Social Security Act (the Act) to publish within 45 days after the close of the third calendar quarter of 1993 the benefit increase percentage and the revised table of "special minimum" benefits (section 215(i)(2)(D)). Also, the Secretary is required to publish before November 1 the average of the total wages for 1992 (section 215(i)(2)(C)(ii)) and the OASDI fund ratio for 1993 (section 215(i)(2)(C)(ii)). Finally, the Secretary is required to publish on or before November 1 the OASDI contribution and benefit base for 1994 (section 230(a)), the amount of earnings required to be credited with a quarter of coverage in 1994 (section 213(d)(2)), the monthly exempt amounts under the Social Security retirement earnings test for 1994 (section 203(f)(8)(A)), the formula for computing a primary insurance amount for workers who first become eligible for benefits or die in 1994 (section 215(a)(1)(D)), and the formula for computing the maximum amount of benefits payable to the family of a worker who first becomes eligible for old-age benefits or dies in 1994 (section 203(a)(2)(C)).

Cost-of-Living Increases

General. The cost-of-living increase is 2.6 percent for benefits under titles II and XVI of the Act.

Under title II, OASDI benefits will increase by 2.6 percent beginning with the December 1993 benefits, which are payable on January 3, 1994. This increase is based on the authority contained in section 215(i) of the Act (42 U.S.C. 415(i)).

Under title XVI, Federal SSI payment levels will also increase by 2.6 percent effective for payments made for the month of January 1994 but paid on December 30, 1993. This is based on the authority contained in section 1617 of the Act (42 U.S.C. 1382f). The percentage increase effective January 1994 is the same as the title II percentage increase and the annual payment amount is rounded, when not a multiple of $12, to the next lower multiple of $12.

Automatic Benefit Increase Computation. Under section 215(i) of the Act, the third calendar quarter of 1993 is a cost-of-living computation quarter for all the purposes of the Act. The Secretary is, therefore, required to increase benefits, effective with December 1993, for individuals entitled under section 227 or 228 of the Act, to increase primary insurance amounts of all other individuals entitled under title II of the Act, and to increase maximum benefits payable to a family. For December 1993, the benefit increase is the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers from the third quarter of 1992 through the third quarter of 1993.

Section 215(i)(1) of the Act provides that the Consumer Price Index for a cost-of-living computation quarter shall be the arithmetic mean of this index for the 3 months in that quarter. The Department of Labor's Consumer Price Index for Urban Wage Earners and Clerical Workers for each month in the quarter ending September 30, 1992, was: For July 1992, 138.4; for August 1992, 138.8; and for September 1992, 139.1. The arithmetic mean for this calendar quarter is 138.8 (after rounding to the nearest 0.1). The corresponding Consumer Price Index for each month in the quarter ending September 30, 1993, was: For July 1993, 142.1; for August 1993, 142.4; and for September 1993, 142.6. The arithmetic mean for this calendar quarter is 142.4. Thus, because the Consumer Price Index for the calendar quarter ending September 30, 1993, exceeds that for the calendar quarter ending September 30, 1992 by 2.6 percent, a cost-of-living benefit increase of 2.6 percent is effective for benefits under title II of the Act beginning December 1993.

Title II Benefit Amounts. In accordance with section 215(i) of the Act, in the case of insured workers and family members for whom eligibility for benefits (i.e., the worker's attainment of age 62, or disability or death before age 62) occurred before 1994, benefits will increase by 2.6 percent beginning with benefits for December 1993 which are payable on January 3, 1994. In the case of first eligibility after 1993, the 2.6 percent increase will not apply.

For eligibility after 1978, benefits are generally determined by a benefit formula provided by the Social Security Amendments of 1977 (Pub. L. 95–216), as described later in this notice.

For eligibility before 1979, benefits are determined by means of a benefit table. In accordance with section 215(i)(4) of the Act, the primary insurance amounts and the maximum family benefits shown in this table are revised by (1) increasing by 2.6 percent the corresponding amounts established by the last cost-of-living increase and the last extension of the benefit table made under section 215(i)(4) (to reflect the increase in the OASDI contribution and benefit base for 1993); and (2) by extending the table to reflect the higher monthly wage and related benefit amounts now possible under the increased contribution and benefit base for 1994, as described later in this notice. A copy of this table may be obtained by writing to: Social Security Administration, Office of Public Inquiries, 4100 Annex, Baltimore, MD 21235.

Section 215(i)(2)(D) of the Act also requires that, when the Secretary determines an automatic increase in Social Security benefits, the Secretary shall publish in the **Federal Register** a revision of the range of the primary insurance amounts and corresponding maximum family benefits based on the dollar amount and other provisions described in section 215(a)(1)(C)(i). These benefits are referred to as "special minimum" benefits and are payable to certain individuals with long periods of relatively low earnings. To qualify for such benefits, an individual must have at least 11 "years of coverage." To earn a year of coverage for purposes of the special minimum, a person must earn at least a certain proportion (25 percent for years before 1991, and 15 percent for years after 1990) of the "old-law" contribution and benefit base. In accordance with section 215(a)(1)(C)(i), the table below shows the revised range of primary insurance amounts and corresponding maximum family benefit amounts after the 2.6 percent benefit increase.

SPECIAL MINIMUM PRIMARY INSURANCE AMOUNTS AND MAXIMUM FAMILY BENEFITS

Special minimum primary insurance amount payable for Dec. 1992	Number of years of coverage	Special minimum primary insurance amount payable for Dec. 1993	Special minimum family benefit payable for Dec. 1993
$24.50	11	$25.10	$37.80
48.90	12	50.10	75.70
73.70	13	75.60	113.80
98.30	14	100.80	151.50
122.90	15	126.00	189.10
147.50	16	151.30	227.50
172.20	17	176.60	265.40
196.90	18	202.00	303.20
221.50	19	227.20	341.10
246.00	20	252.30	378.90
270.90	21	277.90	417.10
295.40	22	303.00	454.90
320.20	23	328.50	493.40
344.80	24	353.70	531.10
369.30	25	378.90	568.70
394.20	26	404.40	607.20
418.90	27	429.70	645.00
443.30	28	454.80	682.70
467.90	29	480.00	720.80
492.50	30	505.30	758.50

Section 227 of the Act provides flat-rate benefits to a worker who became age 72 before 1969 and was not insured under the usual requirements, and to his or her spouse or surviving spouse. Section 228 of the Act provides similar benefits at age 72 for certain uninsured persons. The current monthly benefit amount of $178.80 for an individual under sections 227 and 228 of the Act is increased by 2.6 percent to obtain the new amount of $183.40. The present monthly benefit amount of $89.50 for a spouse under section 227 is increased by 2.6 percent to $91.80.

Title XVI Benefit Amounts. In accordance with section 1617 of the Act, Federal SSI benefit amounts for the aged, blind, and disabled are increased by 2.6 percent effective January 1994. Therefore, the yearly Federal SSI benefit amounts of $5,208 for an eligible individual, $7,824 for an eligible individual with an eligible spouse, and $2,604 for an essential person, which became effective January 1993, are increased, effective January 1994, to $5,352, $8,028, and $2,676, respectively, after rounding. The corresponding monthly amounts for 1994 are determined by dividing the yearly amounts by 12, giving $446, $669, and $223, respectively. The monthly amount is reduced by subtracting monthly countable income. In the case of an eligible individual with an eligible spouse, the amount payable is further divided equally between the two spouses.

Averages of the Total Wages for 1992

General. Under various provisions of the Act, several amounts are scheduled to increase automatically for 1994. These include (1) the OASDI contribution and benefit base, (2) the retirement test exempt amounts, (3) the dollar amounts, or "bend points," in the primary insurance amount and maximum family benefit formulas, (4) the amount of earnings required for a worker to be credited with a quarter of coverage, and (5) the "old law" contribution and benefit base (as determined under section 230 of the Act as in effect before the 1977 amendments). These amounts are based on the increase in the average of the total wages.

Computation. The determination of the average wage figure for 1992 is based on the 1991 average wage figure of $21,811.60 announced in the **Federal Register** on October 27, 1992 (57 FR 48619), along with the percentage increase in average wages from 1991 to 1992 measured by annual wage data tabulated by the Social Security Administration (SSA). The wage data tabulated by SSA include contributions to deferred compensation plans, as required by section 209(k) of the Act. The average amounts of wages calculated directly from this data were $20,923.84 and $22,001.92 for 1991 and 1992, respectively. To determine an average wage figure for 1992 at a level that is consistent with the series of average wages for 1951 through 1977 (published December 29, 1978, at 43 FR 61016), we multiplied the 1991 average wage figure of $21,811.60 by the percentage increase in average wages from 1991 to 1992 (based on SSA-tabulated wage data) as follows (with the result rounded to the nearest cent):

Amount. Average wage for 1992 = $21,811.60 x $22,001.92 = $20,923.84 = $22,935.42. Therefore, the average wage for 1992 is determined to be $22,935.42.

OASDI Contribution and Benefit Base

General. The OASDI contribution and benefit base is $60,600 for remuneration paid in 1994 and self-employment

income earned in taxable years beginning in 1994.

The OASDI contribution and benefit base serves two purposes:

(a) It is the maximum annual amount of earnings on which OASDI taxes are paid. The OASDI tax rate for remuneration paid in 1994 is set by statute at 6.2 percent for employees and employers, each. The OASDI tax rate for self-employment income earned in taxable years beginning in 1994 is 12.4 percent.

(b) It is the maximum annual amount used in determining a person's OASDI benefits.

Computation. Section 230(c) of the Act provides a table with the contribution and benefit base for each year 1978, 1979, 1980, and 1981. For years after 1981, section 230(b) of the Act contains a formula for determining the OASDI contribution and benefit base. Under the prescribed formula, the base for 1994 shall be equal to the 1993 base of $57,600 multiplied by the ratio of (1) the average amount, per employee, of total wages for calendar year 1992 to (2) the average amount of those wages for calendar year 1991. Section 230(b) further provides that if the amount so determined is not a multiple of $300, it shall be rounded to the nearest multiple of $300.

Average Wages. The average wage for calendar year 1991 was previously determined to be $21,811.60. The average wage for calendar year 1992 has been determined to be $22,935.42, as stated above.

Amount. The ratio of the average wage for 1992, $22,935.42, compared to the average wage for 1991, $21,811.60, is 1.051524. Multiplying the 1993 OASDI contribution and benefit base amount of $57,600 by the ratio of 1.051524 produces the amount of $60,567.78 which must then be rounded to $60,600. Accordingly, the OASDI contribution and benefit base is determined to be $60,600 for 1994.

Repeal of the Hospital Insurance Contribution Base

Section 13207 of Public Law 103–66 (the Omnibus Budget Reconciliation Act of 1993) repealed the limitation on the amount of earnings subject to the Hospital Insurance (HI) tax beginning with calendar year 1994. This amount of earnings, called the HI contribution base, had been subject to automatic annual increases based on increases in the average of the total wages. The HI tax is now due on the total remuneration paid in 1994, at the rate of 1.45 percent for employees and employers, each, and on self-employment income earned in taxable years beginning in 1994, at the rate of 2.9 percent.

Retirement Earnings Test Exempt Amounts

General. Social Security benefits are withheld when a beneficiary under age 70 has earnings in excess of the retirement earnings test exempt amount. A formula for determining the monthly exempt amounts is provided in section 203(f)(8)(B) of the Act. The 1993 monthly exempt amounts were determined by the formula to be $880 for beneficiaries aged 65–69 and $640 for beneficiaries under age 65. Thus, the annual exempt amounts for 1993 were set at $10,560 and $7,680, respectively. For beneficiaries aged 65–69, $1 in benefits is withheld for every $3 of earnings in excess of the annual exempt amount. For beneficiaries under age 65, $1 in benefits is withheld for every $2 of earnings in excess of the annual exempt amount.

Computation. Under the formula provided in section 203(f)(8)(B) of the Act, each monthly exempt amount for 1994 shall be the corresponding 1993 monthly exempt amount multiplied by the ratio of (1) the average amount, per employee, of the total wages for calendar year 1992 to (2) the average amount of those wages for calendar year 1991. The section further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Average Wages. The average wage for 1992, as determined above, is $22,935.42. Therefore, the ratio of the average wages for 1992, $22,935.42, compared to that for 1991, $21,811.60, is 1.051524.

Exempt Amount for Beneficiaries Aged 65 Through 69. Multiplying the 1993 retirement earnings test monthly exempt amount of $880 by the ratio of 1.051524 produces the amount of $925.34. This must then be rounded to $930. The retirement earnings test monthly exempt amount for beneficiaries aged 65 through 69 is determined to be $930 for 1994. The corresponding retirement earnings test annual exempt amount for these beneficiaries is $11,160.

Exempt Amount for Beneficiaries Under Age 65. Multiplying the 1993 retirement earnings test monthly exempt amount of $640 by the ratio 1.051524 produces the amount of $672.98. This must then be rounded to $670. The retirement earnings test monthly exempt amount for beneficiaries under age 65 is thus determined to be $670 for 1994. The corresponding retirement earnings test annual exempt amount for these beneficiaries is $8,040.

Computing Benefits After 1978

General. The Social Security Amendments of 1977 provided a method for computing benefits which generally applies when a worker first becomes eligible for benefits after 1978. This method uses the worker's "average indexed monthly earnings" to compute the primary insurance amount. The computation formula is adjusted automatically each year to reflect changes in general wage levels.

A worker's earnings are adjusted, or "indexed," to reflect the change in general wage levels that occurred during the worker's years of employment. Such indexation ensures that a worker's future benefits reflect the general rise in the standard of living that occurs during his or her working lifetime. A certain number of years of earnings are needed to compute the average indexed monthly earnings. After the number of years is determined, those years with the highest indexed earnings are chosen, the indexed earnings are summed, and the total amount is divided by the total number of months in those years. The resulting average amount is then rounded down to the next lower dollar amount. The result is the average indexed monthly earnings.

For example, to compute the average indexed monthly earnings for a worker attaining age 62, becoming disabled before age 62, or dying before attaining age 62, in 1994, the average of the total wages for 1992, $22,935.42, is divided by the average of the total wages for each year prior to 1992 in which the worker had earnings. The actual wages and self-employment income, as defined in section 211(b) of the Act and credited for each year, is multiplied by the corresponding ratio to obtain the worker's indexed earnings for each year before 1992. Any earnings in 1992 or later are considered at face value, without indexing. The average indexed monthly earnings is then computed and used to determine the worker's primary insurance amount for 1994.

Computing the Primary Insurance Amount. The primary insurance amount is the sum of three separate percentages of portions of the average indexed monthly earnings. In 1979 (the first year the formula was in effect), these portions were the first $180, the amount between $180 and $1,085, and the amount over $1,085. The dollar amounts in the formula which govern the portions of the average indexed monthly earnings are frequently referred to as the "bend points" of the formula. Thus, the bend points for 1979 were $180 and $1,085.

The bend points for 1994 are obtained by multiplying the corresponding 1979 bend-point amounts by the ratio between the average of the total wages for 1992, $22,935.42, and for 1977, $9,779.44. These results are then rounded to the nearest dollar. For 1994, the ratio is 2.3452693. Multiplying the 1979 amounts of $180 and $1,085 by 2.3452693 produces the amounts of $422.15 and $2,544.62. These must then be rounded to $422 and $2,545. Accordingly, the portions of the average indexed monthly earnings to be used in 1994 are determined to be the first $422, the amount between $422 and $2,545, and the amount over $2,545.

Consequently, for individuals who first become eligible for old-age insurance benefits or disability insurance benefits in 1994, or who die in 1994 before becoming eligible for benefits, we will compute their primary insurance amount by adding the following:

(a) 90 percent of the first $422 of their average indexed monthly earnings, plus

(b) 32 percent of the average indexed monthly earnings over $422 and through $2,545, plus

(c) 15 percent of the average indexed monthly earnings over $2,545.

This amount is then rounded to the next lower multiple of $.10 if it is not already a multiple of $.10. This formula and the adjustments we have described are contained in section 215(a) of the Act (42 U.S.C. 415(a)).

Maximum Benefits Payable to a Family

General. The 1977 amendments continued the long established policy of limiting the total monthly benefits which a worker's family may receive based on his or her primary insurance amount. Those amendments also continued the then existing relationship between maximum family benefits and primary insurance amounts but did change the method of computing the maximum amount of benefits which may be paid to a worker's family. The Social Security Disability Amendments of 1980 (Pub. L. 96–265) established a new formula for computing the maximum benefits payable to the family of a disabled worker. This new formula is applied to the family benefits of workers who first become entitled to disability insurance benefits after June 30, 1980, and who first become eligible for these benefits after 1978. The new formula was explained in a final rule published in the **Federal Register** on May 8, 1981, at 46 FR 25601. For disabled workers initially entitled to disability benefits before July 1980, or whose disability began before 1979, the family maximum payable is computed the same as the old-age and survivor family maximum.

Computing the Old-Age and Survivor Family Maximum. The formula used to compute the family maximum is similar to that used to compute the primary insurance amount. It involves computing the sum of four separate percenteges of portions of the worker's primary insurance amount. In 1979, these portions were the first $230, the amount between $230 and $332, the amount between $332 and $433, and the amount over $433. The dollar amounts in the formula which govern the portions of the primary insurance amount are frequently referred to as the "bend points" of the family-maximum formula. Thus, the bend points for 1979 were $230, $332, and $433.

The bend points for 1994 are obtained by multiplying the corresponding 1979 bend-point amounts by the ratio between the average of the total wages for 1992, $22,935.42, and the average for 1977, $9,779.44. This amount is then rounded to the nearest dollar. For 1994, the ratio is 2.3452693. Multiplying the amounts of $230, $332, and $433 by 2.3452693 produces the amounts of $539.41, $778.63, and $1,015.50. These amounts are then rounded to $539, $779, and $1,016. Accordingly, the portions of the primary insurance amounts to be used in 1994 are determined to be the first $539, the amount between $539 and $779, the amount between $779 and $1,016, and the amount over $1,016.

Consequently, for the family of a worker who becomes age 62 or dies in 1994 before age 62, the total amount of benefits payable to them will be computed so that it does not exceed:

(a) 150 percent of the first $539 of the worker's primary insurance amount, plus

(b) 272 percent of the worker's primary insurance amount over $539 through $779, plus

(c) 134 percent of the worker's primary insurance amount over $779 through $1,016, plus

(d) 175 percent of the worker's primary insurance amount over $1,016.

This amount is then rounded to the next lower multiple of $.10 if it is not already a multiple of $.10. This formula and the adjustments we have described are contained in section 203(a) of the Act (42 U.S.C. 403(a)).

Quarter of Coverage Amount

General. The 1994 amount of earnings required for a quarter of coverage is $620. A quarter of coverage is the basic unit for determining whether a worker is insured under the Social Security program. For years before 1978, an individual generally was credited with a quarter of coverage for each quarter in which wages of $50 or more were paid, or an individual was credited with 4 quarters of coverage for every taxable year in which $400 or more of self-employment income was earned. Beginning in 1978, wages generally are no longer reported on a quarterly basis; instead, annual reports are made. With the change to annual reporting, section 352(b) of the Social Security Amendments of 1977 (Pub. L. 95–216) amended section 213(d) of the Act to provide that a quarter of coverage would be credited for each $250 of an individual's total wages and self-employment income for calendar year 1978 (up to a maximum of 4 quarters of coverage for the year).

Computation. Under the prescribed formula, the quarter of coverage amount for 1994 shall be equal to the 1978 amount of $250 multiplied by the ratio of (1) the average amount, per employee, of total wages for calendar year 1992 to (2) the average amount of those wages reported for calendar year 1976. The section further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Average Wages. The average wage for calendar year 1976 was previously determined to be $9,226.48. This was published in the **Federal Register** on December 29, 1978, at 43 FR 61016. The average wage for calendar year 1992 has been determined to be $22,935.42 as stated above.

Quarter of Coverage Amount. The ratio of the average wage for 1992, $22,935.42, compared to that for 1976, $9,226.48, is 2.4858256. Multiplying the 1978 quarter of coverage amount of $250 by the ratio of 2.4858256 produces the amount of $621.46, which must then be rounded to $620. Accordingly, the quarter of coverage amount is determined to be $620 for 1994.

"Old-Law" Contribution and Benefit Base

General. The 1994 "old-law" contribution and benefit base is $45,000. This is the base that would have been effective under the Act without the enactment of the 1977 amendments. The base is computed under section 230(b) of the Act as it read prior to the 1977 amendments.

The "old-law" contribution and benefit base is used by:

(a) The Railroad Retirement program to determine certain tax liabilities and tier II benefits payable under that program to supplement the tier I payments which correspond to basic Social Security benefits,

(b) The Pension Benefit Guaranty Corporation to determine the maximum amount of pension guaranteed under the Employee Retirement Income Security Act (as stated in section 230(d) of the Act),

(c) Social Security to determine a year of coverage in computing the special minimum benefit, as described earlier, and

(d) Social Security to determine a year of coverage (acquired whenever earnings equal or exceed 25 percent of the "old-law" base for this purpose only) in computing benefits for persons who are also eligible to receive pensions based on employment not covered under section 210 of the Act.

Computation. The base is computed using the automatic adjustment formula in section 230(b) of the Act as it read prior to the enactment of the 1977 amendments. Under the formula, the "old-law" contribution and benefit base shall be the "old-law" 1993 base multiplied by the ratio of (1) the average amount, per employee, of total wages for calendar year 1992 to (2) the average amount of those wages for calendar year 1991. If the amount so determined is not a multiple of $300, it shall be rounded to the nearest multiple of $300.

Average Wages. The average wage for calendar year 1991 was previously determined to be $21,811.60. The average wage for calendar year 1992 has been determined to be $22,935.42, as stated above.

Amount. The ratio of the average wage for 1992, $22,935.42, compared to the average wage for 1991, $21,811.60, is 1.051524. Multiplying the 1993 "old-law" contribution and benefit base amount of $42,900 by the ratio of 1.051524 produces the amount of $45,110.38 which must then be rounded to $45,000. Accordingly, the "old-law" contribution and benefit base is determined to be $45,000 for 1994.

OASDI Fund Ratio

General. Section 215(i) of the Act provides for automatic cost-of-living increases in OASDI benefit amounts. This section also includes a "stabilizer" provision that can limit the automatic OASDI benefit increase under certain circumstances. If the combined assets of the OASI and DI Trust Funds, as a percentage of annual expenditures, are below a specified threshold, the automatic benefit increase is equal to the lesser of (1) the increase in average wages or (2) the increase in prices. The threshold specified for the OASDI fund ratio is 20.0 percent for benefit increases for December of 1989 and later. The law also provides for subsequent "catch-up" benefit increases for beneficiaries whose previous benefit increases were affected by this provision. "Catch-up" benefit increases can occur only when trust fund assets exceed 32.0 percent of annual expenditures.

Computation. Section 215(i) specifies the computation and application of the OASDI fund ratio. The OASDI fund ratio for 1993 is the ratio of (1) the combined assets of the OASI and DI Trust Funds at the beginning of 1993 to (2) the estimated expenditures of the OASI and DI Trust Funds during 1993, excluding transfer payments between the OASI and DI Trust Funds, and reducing any transfers to the Railroad Retirement Account by any transfers from that account into either trust fund.

Ratio. The combined assets of the OASI and DI Trust Funds at the beginning of 1993 equaled $331,473 million, and the expenditures are estimated to be $308,904 million. Thus, the OASDI fund ratio for 1993 is 107.3 percent, which exceeds the applicable threshold of 20.0 percent. Therefore, the stabilizer provision does not affect the benefit increase for December 1993. Although the OASDI fund ratio exceeds the 32.0-percent threshold for potential "catch-up" benefit increases, no past benefit increase has been reduced under the stabilizer provision. Thus, no "catch-up" benefit increase is required.

(Catalog of Federal Domestic Assistance: Program Nos. 93.802 Social Security-Disability Insurance; 93.803 Social Security-Retirement Insurance; 93.804 Social Security-Special Benefits for Persons Aged 72 and Over; 93.805 Social Security-Survivors Insurance; 93.807 Supplemental Security Income.)

Dated: October 22, 1993.

Donna E. Shalala,

Secretary of Health and Human Services.

[FR Doc. 93-26549 Filed 10-27-93; 8:45 am]

BILLING CODE 4190-29-P

Centers for Disease Control and Prevention

[Program Announcement Number 406]

Public Health Conference Support Grant Program; Availability of Funds for Fiscal Year 1994

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of funds in fiscal year (FY) 1994 for the Public Health Conference Support Grant Program. The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to all of Healthy People 2000 priority areas, except HIV Infection (an announcement for HIV entitled, "Public Health Conference Support Cooperative Agreement Program for Human Immunodeficiency Virus (HIV) Prevention" will be published in the near future). (For ordering a copy of Healthy People 2000, see the section Where to Obtain Additional Information.)

Authority

This program is authorized under section 301 (42 U.S.C. 241) and section 310 (42 U.S.C. 242n) of the Public Health Service Act.

Eligible Applicants

Eligible applicants include non-profit and for-profit organizations. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, state and local health departments or their bona fide agents or instrumentalities, and small, minority- and/or woman-owned businesses are eligible for these grants.

Availability of Funds

Approximately $200,000 is available in FY 1994 to fund approximately 12 awards. The awards range from $1,000 to $30,000 with the average award being approximately $15,000. The awards will be made for a 12-month budget and project period. The funding estimates may vary and are subject to change.

1. Grant funds may be used for direct cost expenditures: salaries, speaker fees, rental of necessary equipment, registration fees, and transportation costs (not to exceed economy class fare) for non-federal employees.

2. Funds may not be used for the purchase of equipment, payments of honoraria, alterations or renovations, organizational dues, entertainment/personal expenses, cost of travel and payment of a full-time Federal employee, per diem or expenses other than local mileage for local participants, or reimbursement of indirect costs. Although the practice of handing out novelty items at meetings is often employed in the private sector to provide participants with souvenirs, Federal funds cannot be used for this purpose.

Purpose

The purpose of the conference support grants is to provide partial support for specific non-federal conferences in the areas of health promotion and disease prevention information/education programs.

Applications are being solicited for conferences on: (1) Chronic disease prevention; (2) infectious disease prevention; (3) control of injury or disease associated with environmental, home, and work-place hazards; (4) environmental health; (5) occupational safety and health; (6) control of risk factors such as poor nutrition, smoking, lack of exercise, high blood pressure, stress, and drug misuse; (7) health education and promotion; (8) laboratory practices; and (9) efforts that would strengthen the public health system. Because conference support by CDC creates the appearance of CDC co-sponsorship, there will be active participation by CDC in the development and approval of those portions of the agenda supported by CDC funds. In addition, CDC will reserve the right to approve or reject the content of the full agenda, speaker selection, and site selection. CDC funds will not be expended for non-approved portions of meetings. Contingency awards will be made allowing usage of only 10% of the total amount to be awarded until a final full agenda is approved by CDC. This will provide funds for costs associated with preparation of the agenda. The remainder of funds will be released only upon approval of the final full agenda. CDC reserves the right to terminate co-sponsorship if it does not concur with the final agenda.

Because CDC's mission and programs relate to the promotion of health and the prevention of disease, disability, and premature death, only conferences focusing on such programmatic areas will be considered. Those topics concerned with health-care and health-service issues and areas other than prevention should be directed to other public health agencies.

Program Requirements

Grantees must meet the following requirements:

A. Manage all activities related to program content (e.g., objectives, topics, attendees, session design, workshops, special exhibits, speakers, fees, agenda composition, and printing). Many of these items may be developed in concert with assigned CDC project personnel.

B. Provide draft copies of the agenda and proposed ancillary activities to CDC for approval. Submit copy of final agenda and proposed ancillary activities to CDC for approval.

C. Determine and manage all promotional activities (e.g., title, logo, announcements, mailers, press, etc.). CDC must review and approve any materials with reference to CDC involvement or support.

D. Manage all registration processes with participants, invitees, and registrants (e.g., travel, reservations, correspondence, conference materials and hand-outs, badges, registration procedures, etc.).

E. Plan, negotiate, and manage conference site arrangements, including all audio-visual needs.

F. Participate in the analysis of data from conference activities that pertain to the impact on prevention.

Letter of Intent

Potential applicants must submit a letter of intent (not to exceed one typewritten page) that briefly describes the title, location, purpose, and date of the proposed conference and the intended audience (number and profession). This letter should also include the estimated total cost of the conference and the percentage of the total cost being requested from CDC.

Letters of intent will be reviewed by program staff for consistency with CDC's health promotion and disease prevention goals and priorities and the purpose of this program. An invitation to submit a final application will be made on the basis of the proposal's relationship to the CDC strategic plan for health promotion and disease prevention and on the availability of funds.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria (total 100 Points):

A. Proposed Program and Technical Approach (25 Points)

Evaluation will be based on the relevance of the conference to CDC's mission and program activities.

B. Applicant Capability (10 Points)

Evaluation will be based on the adequacy of applicant's resources (additional sources of funding, organization's strengths, staff time, etc.) available for the project.

C. The Qualification of Program Personnel (20 Points)

Evaluation will be based on the extent to which the proposal has described (a) the qualifications, experience, and commitment of the principal staff person, and his/her ability to devote adequate time and effort to provide effective leadership; (b) the competence of associate staff persons, discussion leaders, speakers, and presenters to accomplish the proposed conference; and (c) the degree to which the application demonstrates the knowledge of nationwide information and education efforts currently underway which may affect, and be affected by, the proposed conference.

D. Conference Objectives (25 points)

Evaluation will be based on the overall quality, reasonableness, feasibility, and logic of the designed conference objectives, including the overall workplan and timetable for accomplishment. Evaluation will also be based on the likelihood of accomplishing conference objectives as they relate to disease prevention and health promotion goals, and the feasibility of the project in terms of operational plan.

E. Evaluation Methods (20 Points)

Evaluation will be based on the extent to which evaluation mechanisms for the conference will be able to adequately assess increased knowledge, attitudes, and behaviors of the target attendees.

F. Budget Justification and Adequacy of Facilities (Not Scored)

The proposed budget will be evaluated on the basis of its reasonableness, concise and clear justification, and consistency with the intended use of grant funds. The application will also be reviewed as to the adequacy of existing and proposed facilities and resources for conducting conference activities.

Executive Order 12372 Review

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements. Under these requirements, all community-based nongovernmental applicants must prepare and submit the items identified below to the head of the appropriate state and/or local health agency(s) in the program area(s) that may be impacted by the proposed project no later than the receipt date of the Federal application. The appropriate state and/or local health agency is determined by the applicant. The following information must be provided:

a. A copy of the face page of the application (SF398); and

b. A summary of the project entitled "Public Health System Impact Statement" (PHSIS), not to exceed one page, and include the following:

(1) A description of the population to be served;

(2) A summary of the services to be provided; and

(3) A description of the coordination plans with the appropriate state and/or local health agencies.

If the state and/or local health official should desire a copy of the entire application, it may be obtained from the state Single Point of Contact (SPOC) or directly from the applicant.

Catalog of Federal Domestic Assistance (CFDA)

The Catalog of Federal Domestic Assistance Number is 93.283.

Letter of Intent and Application Submission and Deadline

The original and two copies of the letter of intent must be submitted by the following deadline dates in order to be considered in the application cycles: (Facsimiles are not acceptable.)

Letter of intent due date	Application deadline
November 29, 1993 ..	February 7, 1994.
April 4, 1994	June 3, 1994.

Following submission of a letter-of-intent, successful applicants will receive a written notification to submit an application for funding. Applications may be accepted by CDC only after the letter-of-intent has been reviewed by CDC and written invitation from CDC has been received by prospective applicant. An invitation to submit an application does not constitute a commitment to fund the applicant.

Anticipated future dates for this announcement submission are proposed as follows:

Letter of intent due date	Application deadline
November 15	January 20.
April 4	June 5.

The original and two copies of the application must be submitted on PHS Form 5161–1 and in accordance with the schedule below. The schedule also sets forth the earliest possible award date.

Application deadline	Earliest possible award date
February 7, 1994	April 22, 1994.
June 3, 1994	July 29, 1994.

Applications must be submitted on or before the deadline date to: Mr. Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., room 300, Atlanta, GA 30305.

1. *Deadline.* Letters of Intent and Applications shall be considered as meeting the deadline if they are either:

A. Received on or before the deadline date, or

B. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. *Late Applications.* Applications that do not meet the criteria in 1.A. or 1.B. above are considered late applications and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information call (404) 332–4561. You will be asked to leave your name, address, and phone number and will need to refer to Announcement Number 406. You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all the documents, business management assistance (application information) may be obtained from Georgia Jang, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., room 300, Mailstop E13, Atlanta, GA 30305, (404) 842–6630. Programmatic technical assistance may be obtained from Bruce Granoff, Program Analyst, Public Health Practice Program Office, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop E42, Atlanta, GA 30333, (404) 639–0425.

Please refer to Announcement Number 406 when requesting information and when submitting your letter of intent and application in response to the announcement.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington DC 20402–9325, telephone (202) 783–3238.

Dated: October 22, 1993.

Robert L. Foster,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–26531 Filed 10–27–93; 8:45 am]

BILLING CODE 4160–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 93D–0340]

Therapeutic Use Antimicrobial New Animal Drugs; CVM Points to Consider for Flexible Dose Labeling; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a points to consider document entitled "Points to Consider for Preliminary Considerations for Development of a Guideline Enabling Flexible Labeling of Antimicrobials for Therapeutic Use." The document was prepared by the Center For Veterinary Medicine (CVM). The document is being used by CVM to solicit public comment on a projected guideline concerning flexible dose labeling of antimicrobial new animal drugs for therapeutic use. The guideline will establish a policy to permit flexible dose labeling of new animal drugs and to assist veterinarians in the professional use of these products. Drug products used in variable dose ranges that are intended for food animal use must provide information on their labels or labeling that will assure the protection of the food supply from illegal drug residues. The points to consider document reviews the factors that should be evaluated by manufacturer(s) when developing dose ranges, withdrawal times, and other expanded label information relevant to the safe and effective use of antimicrobial new animal drugs for therapeutic use. In addition, to facilitate the characterization of the spectra of activity of the proposed therapeutic antimicrobials relative to a standard battery of pathogens, CVM offers for comment a list of animal pathogens, segregated by host species.

DATES: Submit written comments by April 26, 1994.

ADDRESSES: Submit written requests for single copies of the points to consider document to the Communications and Education Branch (HFV–12), Center for

Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the points to consider document to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. The points to consider document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Lawrence J. Ventura, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1647.

SUPPLEMENTARY INFORMATION: CVM is in the process of preparing a guideline to facilitate the development of studies that are intended to support flexible dose use and the related labeling of antimicrobial new animal drugs for therapeutic use. Appropriate labeling of these products will help prevent the occurrence of illegal drug residues in food derived from treated animals. The points to consider document addresses the development of in vitro antimicrobial data with multiple isolates of animal pathogens and the collection of appropriate pharmacokinetic data to be used as guidance when selecting the effective dose. These data provide a basis for establishing a therapeutic range/therapeutic window. Pharmacokinetic and antimicrobial data are intended to thoroughly characterize drug activity both in vitro and in selected animal species.

The document also addresses clinical confirmation of a suggested dose for each disease claim. Selected doses will be correlated with residue depletion data to produce a depletion profile over the range of the therapeutic window. Labeling will provide variable dose information that can be used by veterinarians to select a therapeutic regimen most appropriate for a specific disease and, for food animals, provide a safe withdrawal period.

CVM is requesting comments on the points to consider document and on the attached list of veterinary pathogens to assist in developing a guideline addressing data collection to support flexible dose labeling of antimicrobial new animal drugs for therapeutic use.

Interested persons may, on or before April 26, 1994, submit written comments to the Dockets Management Branch (address above). Comments should be submitted in duplicate (except that individuals may submit one copy), identified with the docket number found in brackets in the heading of this document. The points to consider document and received comments may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 21, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–26502 Filed 10–27–93; 8:45 am]

BILLING CODE 4160–01–F

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment Programs; Application Receipt Dates

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Application receipt dates for FY 1994.

In FY 1993 the Center for Substance Abuse Treatment (CSAT) announced six ongoing programs. These announcements included language regarding potential future application receipt dates. However, because funds to support new projects under five of these programs were not appropriated for FY 1994, CSAT will not be accepting applications under the January 10 or the May 10, 1994, receipt dates. The five programs involved are:

Cooperative Agreements for Addiction Treatment and Recovery Systems in Target Cities—CFDA No. 93.196 (FR, Vol. 58, No. 63, Monday, April 5, 1993)

Demonstration Grant Program for Model Comprehensive Treatment for Critical Populations—CFDA No. 93.902 (FR, Vol 58, No. 63, Monday, April 5, 1993)

Services Grant Program for Residential Treatment for Pregnant and Postpartum Women—CFDA No. 93.101 (FR, Vol. 58, No. 63, Monday, April 5, 1993)

Model Comprehensive Substance Abuse Treatment Programs for Non-Incarcerated Criminal and Juvenile Justice Populations—CFDA No. 93.903 (FR, Vol. 58, No. 73, Monday, April 19, 1993)

Model Comprehensive Substance Abuse Treatment Programs for Correctional Populations—CFDA No. 93.903 (FR, Vol 58, No. 73, Monday, April 19, 1993)

For the sixth program:

Demonstration Grant Program for Residential Treatment for Women and their Children—CFDA No. 93.102 (FR, Vol. 58, No. 63, Monday, April 5, 1993)

CSAT anticipates receiving approximately $5 million in drug forfeiture funds to support new projects in FY 1994. CSAT will not accept applications for this program on January 10, 1994; however, CSAT will publish additional guidance for this program early in calendar year 1994. In addition, that notice will provide the address from which potential applicants can obtain application kits. In order to provide applicants with the maximum time possible to prepare applications, the anticipated receipt date for applications for FY 1994 funding is May 10, 1994.

For additional information regarding CSAT programs, contact: Ms. Marjorie Cashion, Center for Substance Abuse Treatment, Rockwall II, 10th Floor, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–8923.

Dated: October 22, 1993.

Joseph R. Leone,

Acting Deputy Administrator, Substance Abuse and Mental Health Services Administration.

[FR Doc. 93–26543 Filed 10–27–93; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–070–04–4350–08]

Seasonal Closure of Public Land for Bald Eagle Protection

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: Order to seasonally close public land.

SUMMARY: Public land located in Lot 3, section 20, T. 7 S., R. 88 W., 6th P.M., Garfield County, Colorado, is closed to all but float through traffic on the Roaring Fork River from January 1 through May 15 to protect bald eagle nesting activities as per 43 CFR 8364.1.

EFFECTIVE DATE: The closure shall be effective January 1, 1994, and remain in effect until rescinded or modified by the Authorized Officer.

SUPPLEMENTARY INFORMATION: The BLM has an isolated parcel located along the Roaring Fork River in Garfield County. A bald eagle nest has been located

adjacent to the BLM parcel. The nest has been in place since the 1940's and it is thought that the eagles successfully fledged young in approximately 1952 and 1978. Birds visit the nest each year but have not produced young since 1978. It meets the criteria of an active nest.

The most critical timeframe for nesting bald eagles is the period which encompasses courtship and nest building to egg laying and incubation, roughly January 1 through May 15. Therefore, the BLM parcel will be closed to all but float through traffic during this timeframe. The area affected by this order will be posted with appropriate regulatory signs. Information including maps of the restricted area is available in the Resource Area and District offices at the addresses shown below.

Those people who are exempt from the restriction include:

(1) Any Federal, State or local officers engaged in fire, emergency and law enforcement activities;

(2) BLM employees engaged in official duties;

(3) Persons authorized to monitor nest activities.

Penalties

Violations of this closure order are punishable by fines not to exceed $1,000 and/or imprisonment not to exceed 12 months.

FOR FURTHER INFORMATION CONTACT: Michael S. Mottice, Area Manager, Glenwood Springs Resource Area, 50629 Highway 6/24, P.O. Box 1009, Glenwood Springs, CO 81602; (303) 945–2341, or Tim Hartzell, District Manager, Grand Junction District, 2815 H Road, Grand Junction, CO 81506; (303) 244–3000.

Dated: October 18, 1993.

Lynda L. Boody,

Acting District Manager.

[FR Doc. 93–26556 Filed 10–27–93; 8:45 am]

BILLING CODE 4310–JB–M

[MT–070–94–4210–02]

Emergency Area Closure of Public Lands Within the Headwaters Resource Area, MT

AGENCY: Butte District Office, Bureau of Land Management, DOI.

ACTION: Notice of emergency area closure of public lands.

SUMMARY: Notice is hereby given that effective October 23, 1993, all public lands in the Limestone Hills west of the Old Woman's Grave Road and south of the Indian Creek Road are closed to all forms of public access. This closure involves all or part of Sections 28, 29, 32, 33, 34 in T. 7 N., R. 1 E., and Sections 3, 4, 5, 8, 9, 10, 15, 17, 20, 21, 22, 27, 28, 29, 33 in T. 6 N., R. 1 E., P.M.M. The area is part of the Montana Army National Guard's Limestone Hills Training Range and has been determined to be contaminated with unexploded ordnance. The emergency area closure is necessary for public safety until an amendment to the National Guard's right-of-way creating a permanent closure can be processed.

Authority for this emergency action is found at 43 CFR 8341.2. The closure will remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT: Bob Rodman, Bureau of Land Management, P.O. Box 3388, Butte, Montana 59702; telephone (406) 494–5059.

Dated: October 19, 1993.

James R. Owings,

District Manager.

[FR Doc. 93–26491 Filed 10–27–93; 8:45 am]

BILLING CODE 4310–DN–M

[AZ–054–04–4333–02; 257A]

Arizona; Final Parker Strip Recreation Area Management Plan and Environmental Assessment, Yuma District

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In compliance with the Federal Land Policy and Management Act of 1976 and section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a final Recreation Area Management Plan and Environmental Assessment for the Parker Strip Special Recreation Management Area. The plan involves approximately 25,400 acres of land along the Colorado River in western Arizona and southeastern California. The land lies within La Paz County, Arizona, and San Bernardino County, California. The plan describes the recreational management practices the Bureau of Land Management intends to implement in the Parker Strip Special Recreation Management Area.

Among the management actions prescribed in the draft plan are off-highway vehicle designations, use authorization for concessions and non-commercial leases, and 16 Bureau of Land Management project plans for redevelopment of current facilities and development of new facilities. The new facilities include a boat ramp, two off-highway vehicle areas, two trail systems, a visitor center, maintenance yard and fishing access. The plan also recognizes the need for open space and wildlife habitat.

DATES: The protest period for this plan and decision will commence October 28, 1993. Protests must be submitted on or before December 8, 1993.

ADDRESSES: Protests should be addressed to the Director, Bureau of Land Management (760), MS 406 LS, 849 C Street NW., Washington, DC 20240.

SUPPLEMENTARY INFORMATION: A limited number of copies of the final Parker Strip Recreation Area Management Plan and Environmental Assessment are available upon request to the Havasu Resource Area Manager, Bureau of Land Management, 3189 Sweetwater Avenue, Lake Havasu City, Arizona 86406.

FOR FURTHER INFORMATION CONTACT: Levi Deike, Havasu Resource Area Manager, 3189 Sweetwater Avenue, Lake Havasu City, Arizona 86406, Telephone (602) 855–8017.

Dated: October 19, 1993.

Mervin G. Boyd,

Acting District Manager.

[FR Doc. 93–26558 Filed 10–27–93; 8:45 am]

BILLING CODE 4310–32–M

[ID–943–04–4210–04; IDI–28361, IDI–27420 IDI–27372]

Exchanges and Order Providing for Opening of Public Lands; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of exchanges and opening order.

SUMMARY: The United States has issued three exchange conveyance documents as shown below under section 206 of the Federal Land Policy and Management Act. In addition to providing official public notice of the exchanges, this document contains an order which opens lands received by the United States to the public land, mining, and mineral leasing laws.

EFFECTIVE DATE: November 29, 1993.

FOR FURTHER INFORMATION CONTACT: Sally Carpenter, BLM, Idaho State Office, 3380 Americana Terrace, Boise, Idaho, (208) 384–3163.

1. In three exchanges made under the provisions of section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following described lands have been conveyed from the United States:

Boise Meridian

IDI–28361 (Conveyed to Jean M. Smith)

T. 4 S., R. 3 E.,
Sec. 31, lots 1 to 3, inclusive;
Sec. 32, NW¼SW¼.

IDI–27420 (Conveyed to The Nature Conservancy)

T. 1 N., R. 1 E.,
Sec. 6, E½SE¼ and E½E½W½SE¼;
Sec. 7, E½NE¼ and E½E½W½NE¼;
Sec. 8, NW¼.
T. 6 S., R. 4 E.,
Sec. 25, NW¼SW¼ and S½S½;
Sec. 26, SE¼NE¼ and E½SE¼.

IDI–27372 (Conveyed to County of Elmore, Idaho)

T. 4 S., R. 7 E.,
Sec. 11, lot 2;
Sec. 12, lots 2, 4, and 6;
Sec. 13, lot 2, NW¼NE¼, S½NE¼, N½NW¼, and SE¼NW¼;
Sec. 14, NE¼NE¼.
T. 4 S., R. 8 E.,
Sec. 18, lots 2 and 6.

Comprising 1,269.30 acres of public lands.

2: In exchange for these lands, the United States acquired the following described lands:

Boise Meridian

(Acquired from Jean M. Smith)

T. 5 S., R. 3 E.,
Sec. 9, lots 2 and 3.

(Acquired from The Nature Conservancy)

T. 13 N., R. 4 W.,
Sec. 20, SE¼SW¼;
Sec. 29, E½NW¼, SW¼NW¼, SW¼, and W½SE¼.
T. 4 S., R. 2 E.,
Sec. 10, lots 1, 5, and 6, and NW¼NE¼;
Sec. 11, N½SW¼.

(Acquired from County of Elmore, Idaho)

T. 4 S., R. 7 E.,
Sec. 13, S½SW¼;
Sec. 14, SE¼SE¼;
Sec. 23, E½ east of I–84.

Comprising 1,097.56 acres of private and county lands.

The purpose of the exchanges was to acquire non-Federal lands which have high public values for wildlife and riparian habitat and recreation. The public interest was well served through completion of these exchanges. The values of the Federal and private lands involved in each exchange were equal.

3. At 9 a.m. on November 29, 1993, the reconveyed private and county lands described in paragraph 2 will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on November 29, 1993, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 9 a.m. on November 29, 1993, the reconveyed private and county lands described in paragraph 2 will be opened to location and entry under the United States mining laws and to the operation of the mineral leasing laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the lands described in paragraph 2 under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: October 20, 1993.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 93–26557 Filed 10–27–93; 8:45 am]

BILLING CODE 4310–GG–M

[CA–060–43–7122 08 1016; CACA 29283]

California Desert District; Realty Action, Exchange of Public and Private Lands in Los Angeles and San Bernardino Counties, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Exchange of public and private lands in Los Angeles and San Bernardino Counties, California.

SUMMARY: The following described public lands in Los Angeles County were determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716, by the June 4, 1993 **Federal Register** publication of the exchange base segregation notice for the Western Mojave Land Tenure Adjustment (LTA) Project (58 FR 106; pp. 31748–31750). The affected public lands were segregated, subject to existing valid rights, from appropriation under all other public land laws and the mining laws, but not the mineral leasing laws or Geothermal Steam Act. This determination applies to the selected public lands listed below. The segregative effect will terminate upon issuance of a conveyance document, upon publication in the **Federal Register** of a termination of the segregation, or on June 3, 1995, whichever occurs first.

San Bernardino Meridian, California

T. 6 N., R.13 W.
Sec. 24, NW¼NW¼.

Containing 40.00 acres, more or less, in Los Angeles County.

In exchange for these lands, Roger Hughes of Lancaster, California, an individual, has offered the following non-Federal lands:

Mount Diablo Meridian, California

T. 31 S., R 45 E.
Sec. 24, S½SE¼.

Containing 80.00 acres, more or less, San Bernardino County.

The purpose of this exchange is to acquire and consolidate public land ownership and achieve the multi-agency objectives of the Western Mojave LTA Project. Disposal of the isolated selected public land tract is consistent with the Western Mojave Land Tenure Adjustment Project and the California Desert Conservation Area Plan (December 1980), as amended.

The public lands to be conveyed from the United States will be subject to the following terms and conditions:

A. Reservations to the United States.

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945).

2. The right to itself, its permittees or licensees, to enter upon, occupy and use any part or all of the NW¼NW¼, Section 24, T. 6 N., R. 13 W, SBM, lying within 25 feet of the centerline of a telephone line granted to FERC, CACA 7707, as defined by Power Project Withdrawal, No. 120, for the purposes set forth in and subject to the conditions and limitations of part 1 of the Federal Power Act of August 26, 1935, as amended (16 U.S.C. 818)

The offered land has 25% of the oil and mineral estate reserved, without the right of surface entry, to Mr. Eddie Collins, (a third party, not a part of this exchange), recorded in Book 6933 of Deeds, December 1, 1967, page 946, of the official San Bernardino County records. The remaining 75% of the mineral estate will be conveyed to the United States by the proponent.

The value of the lands to be exchanged are in approximate balance. Equalization of value will be achieved by acreage adjustment, a payment to the United States by the proponent in an amount not to exceed 25 percent of the value of the public lands to be conveyed, a waiver by the proponent of any excess value owned by the United States, or by a waiver under the

amendment to subsection 206(b) Federal Land Policy and Management Act of 1976 provided by section 9 Federal Land Exchange Facilitation Act of 1988.

Additional information, is available at the Barstow Resource Area Office, 150 Coolwater Lane, Barstow, CA 92311 (619–256–3591), and the California Desert District Office, 6221 Box Springs Blvd., Riverside, CA 92507–0714.

For a period of forty-five (45) days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager at the above address.

Dated: October 18, 1993.

Henri R. Bisson,

District Manager.

[FR Doc. 93–26490 Filed 10–27–93; 8:45 am]

BILLING CODE 4310–40–M

[NM–060–04–4760–01–(601)) [NM 82240]

Realty Action; Recreation and Public Purposes, (R&PP) Act Classification; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The following public lands in Eddy County, New Mexico, have been found suitable for classification for conveyance to the City of Carlsbad and Eddy County under the provisions of the Recreation and Public Purposes Act (as amended 43 U.S.C. 869 *et seq.*). The City and County propose to use the lands described below for a regional sanitary landfill/solid waste disposal site.

New Mexico Principal Meridian, New Mexico

T. 21 S., R. 28 E.
Section 11: NW¼.
Containing 160 acres more or less.

The lands are not needed for Federal purposes. Conveyance of these lands is consistent with current BLM land use planning and would be in the public interest. Conveyance of these lands would be contingent upon the City and County obtaining an approved landfill permit from the State of New Mexico Environment Department. Should the City and County be denied a permit, the BLM would not proceed with the conveyance of these lands.

The patent, when issued, will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States under the Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. All valid existing rights documented on the official public land records at the time of patent issuance.

5. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interest therein.

6. Provisions of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6901–6987 and the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) as amended, 42 U.S.C. 9601, and all applicable regulations.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Carlsbad Resource Area, 620 E. Greene Street, Carlsbad, New Mexico.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the proposed conveyance or classification of the lands to the Area Manager, Carlsbad Resource Area, P.O. Box 1778, Carlsbad, NM 88221–1778.

Classification Comments

Interested parties may submit comments involving the suitability of the land for a sanitary landfill/solid waste disposal site. Comments on the classification are restricted to whether the land is physically suited for sanitary landfill/solid waste disposal site, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a sanitary landfill/solid waste disposal site.

Any adverse comments will be evaluated by the State Director who may sustain, vacate or modify this realty action. In the absence of any adverse comments, the realty action will become the final determination of the Department of the Interior and the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

Dated: October 20, 1993.

Joel E. Farrell,

Acting District Manager.

[FR Doc. 93–26560 Filed 10–27–93; 8:45 am]

BILLING CODE 4310–FB–M

[AZ–942–03–4730–02]

Arizona; Filing of Plats of Survey

1. The plats of survey of the following described lands were officially filed in the Arizona State Office, Phoenix, Arizona on the dates indicated:

A plat representing a dependent resurvey of the subdivision of section 7; and the subdivision of section 7 and a metes-and-bounds survey in section 7, Township 39 North, Range 7 East, Gila and Salt River Meridian, Arizona, was accepted July 9, 1993, and was officially filed July 15, 1993.

This plat was prepared at the request of the Bureau of Land Management, Vermillion Resource Area.

A plat representing a dependent resurvey of Homestead Entry Survey No. 367, in section 21, Township 18 North, Range 6 East, Gila and Salt River Meridian, Arizona, was accepted August 11, 1993, and was officially filed August 19, 1993.

This plat was prepared at the request of the United States Forest Service, Coconino National Forest.

A plat representing a dependent resurvey of a portion of the subdivisional lines, the subdivision of section 5, and a portion of Homestead Entry No. 126; and metes-and-bounds surveys in section 5, Township 10 North, Range 10 East, Gila and Salt River Meridian, Arizona, was accepted September 28, 1993, and was officially filed October 7, 1993.

This plat was prepared at the request of Federal Land Exchange, Inc. and the United States Forest Service, Tonto National Forest.

A plat representing a dependent resurvey of a portion of Mineral Survey Number 4221; and a metes-and-bounds survey of Tract 37, and the creation of Tract 38, in unsurveyed Township 11 South, Range 15 East, Gila and Salt

River Meridian, Arizona, was accepted September 14, 1993, and was officially filed September 23, 1993.

A plat representing a dependent resurvey of a portion of the south and west boundaries, a portion of the subdivisional lines, and the subdivision of certain sections; and a metes-and-bounds survey in sections 30 and 31, Township 11 South, Range 16 East, Gila and Salt River Meridian, Arizona, was accepted September 14, 1993, and was officially filed September 23, 1993.

These plats were prepared at the request of the United States Forest Service, Coronado National Forest and Federal Land Exchange, Incorporated.

A supplemental plat showing new lots in section 12, Township 23 South, Range 20 East, Gila and Salt River Meridian, Arizona, was accepted August 24, 1993, and was officially filed September 2, 1993.

This plat was prepared at the request of the United States Forest Service, Coronado National Forest.

A supplemental plat showing amended lottings in the SE ¼ of section 10, the SW ¼ of section 11, and the NE ¼ of section 15, Township 23 South, Range 24 East, Gila and Salt River Meridian, Arizona, was accepted September 28, 1993, and was officially filed October 7, 1993.

This plat was prepared at the request of the Bureau of Land Management, Tucson Resource Area.

2. These plats will immediately become the basic records for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

3. All inquiries relating to these lands should be sent to the Arizona State Office, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011.

James P. Kelley,

Chief Cadastral Surveyor of Arizona.

[FR Doc. 93-26489 Filed 10-27-93; 8:45 am]

BILLING CODE 4310-32-M

[CO-942-94-4730-02]

Colorado: Filing of Plats of Survey

October 18, 1993.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10 a.m., October 18, 1993.

The plat representing the dependent resurvey of portions of the First Standard Parallel South, (south boundary), east, west, and north boundaries, and subdivisional lines, the subdivision of sections, and a metes-and-bounds survey in section 18, T. 5 S., R. 91 W., Sixth Principal Meridian, Colorado, Group No. 910, was accepted September 20, 1993.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of section 16, T. 7 S., R. 93 W., Sixth Principal Meridian, Colorado, Group No. 1031, was accepted September 27, 1993.

The plat (in seven sheets), represents the dependent resurvey of the east, west, and north boundaries, subdivisional lines, certain mineral claims, and the Annie J. Lode, and the subdivision of sections, T. 47 N., R. 2 W., New Mexico Principal Meridian, Colorado, Group No. 883, was accepted September 23, 1993.

The plat represents the corrective dependent resurvey of portions of the Ninth Standard Parallel North (south boundary), the west boundary, and subdivisional lines, and the corrective survey of the subdivision of sections 27, 28, 29, and 30, T. 37 N., R. 2 E., New Mexico Principal Meridian, Colorado, Group No. 971, was accepted September 20, 1993.

These surveys were executed to meet certain administrative needs of this Bureau.

The plat representing the dependent resurvey of portions of the south boundary, and subdivisional lines, and the subdivision of sections 28 and 33, T. 46 N., R. 12 E., New Mexico Principal Meridian, Colorado, Group No. 907, was accepted September 20, 1993.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of section 3, and the remonumentation of certain original corners in T. 43 N., R. 13 W., New Mexico Principal Meridian, Colorado, Group Nos. 974 and 449, was accepted August 23, 1993.

These surveys were executed to meet certain administrative needs of the U.S. Forest Service.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215.

Darryl A. Wilson,

Acting Chief, Cadastral Surveyor for Colorado.

[FR Doc. 93-26487 Filed 10-27-93; 8:45 am]

BILLING CODE 4310-JB-M

[CA-060-343-7122-10-D063; CACA 28709]

Cancellation of Proposed Withdrawal; CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of the Army (Army) has canceled its application to withdraw 481,107 acres of public lands for the expansion of the Army's National Training Center at Fort Irwin. This action opens 166,611 acres to surface entry and mining. The remaining 314,496 acres are included in a new application for withdrawal and remain closed to surface entry and mining. All of the lands have been and remain open to mineral leasing.

EFFECTIVE DATE: October 1, 1993.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, BLM California State Office, 2800 Cottage Way, Room E-2845, Sacramento, California 95825, 916-978-4820.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Withdrawal was published in the **Federal Register**, 56 FR 49792, October 1, 1991, as corrected by 56 FR 65931, December 19, 1991; and as amended by 57 FR 5167, February 12, 1992, as corrected by 57 FR 7435, March 2, 1992, which segregated the lands described therein for up to 2 years from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights. The purpose of the proposed withdrawal was to expand the National Training Center at Fort Irwin. The 2-year segregation expired September 30, 1993, and the lands were relieved of the segregative effect of application CACA 28709. The above referenced **Federal Register** publications provide a legal description of the lands and indicate that the application will be processed unless it is canceled or denied. The Army has canceled application CACA 28709 in its entirety. (A partial cancellation of the proposed withdrawal was published in the **Federal Register** on October 22, 1992, 57 FR 48238; and on July 9, 1993, 58 FR 36991.) The following described lands are opened to surface entry and mining:

Mount Diablo Meridian

T. 31 S., R. 46 E.,
- Sec. 1, lots 1 and 2 of NE¼, and SE¼;
- Sec. 2, lots 1 and 2 of NE¼;
- Sec. 3, W½ lot 1 of NW¼ and W½ lot 2 of NW¼;
- Sec. 4;
- Sec. 5, lot 1 of NE¼, lot 2 of NE¼, lot 1 of NW¼, lot 2 of NW¼, and SW¼;
- Sec. 8;
- Sec. 9, S½;

Sec. 10, SE¼;
Sec. 11;
Sec. 12, N½ and SW¼;
Sec. 13, NW¼ and SE¼;
Sec. 14, N½ and S½SE¼;
Secs. 15 and 17;
Sec. 20, W½E½;
Sec. 21, NE¼;
Sec. 22, SW¼ and W½SE¼;
Sec. 23, SW¼;
Sec. 25, N½ and N½S½;
Sec. 26, NE¼ and S½;
Sec. 27, NE¼ and N½SE¼;
Sec. 28, S½;
Sec. 29, N½;
Secs. 32 and 34.
T. 32 S., R. 46 E.,
Secs. 2, 4, 8, 10, 12, 14, 20, and 22;
Secs. 24 to 28, inclusive;
Secs. 32 to 35, inclusive.
T. 31 S., R. 47 E.,
Sec. 3;
Sec. 4, lots 1 to 4, inclusive, S½N½, and SE¼;
Sec. 5, lots 1 to 4, inclusive, S½N½, and N½S½;
Sec. 6, lots 1 to 5, inclusive, SE¼NW¼, and S½NE¼;
Sec. 7, SE¼SW¼ and SE¼;
Sec. 8, NW¼ and S½;
Sec. 9, NE¼ and S½;
Sec. 10;
Secs. 15 to 22, inclusive;
Secs. 27 to 30, inclusive;
Secs. 32 to 34, inclusive.
T. 32 S., R. 47 E.,
Sec. 3, lot 7 and SE¼NW¼;
Secs. 4, 6, and 8;
Sec. 9, SW¼SW¼;
Sec. 10;
Sec. 15, lots 3 and 4, and SW¼;
Secs. 18, 20, 21, 22, 27, and 28;
Sec. 29, N½NE¼, NE¼NW¼, SW¼NE¼SW¼, SE¼NW¼SW¼, NE¼SW¼SW¼, and NW¼SE¼SW¼;
Secs. 30, 31, and 32;
Sec. 33, SE¼;
Sec. 34.

San Bernardino Meridian

T. 11, N., R. 1 E.,
Secs. 2, 3, 4, 6, 7, 8, 10, 11, 12, 14, and 15.
T. 12 N., R. 1 E.,
Sec. 1, lots 1 to 4, inclusive, S½N½, and SE¼;
Secs. 2, 4, 6, 8, 10, and 12;
Sec. 13, NE¼NW¼NE¼, NW¼NE¼NE¼, and S½SW¼SE¼;
Secs. 14, 18, 19, 20, and 22;
Sec. 23, lot 2;
Secs. 24, 26, 27, and 28;
Sec. 29, SW¼;
Secs. 30, 31, 32, 34, and 35.
T. 13 N., R. 1 E.,
Sec. 1;
Sec. 2, excluding patented land;
Sec. 3, excluding patented land;
Secs. 4 to 9, inclusive;
Sec. 10, excluding patented land;
Sec. 11, excluding patented land;
Secs. 12 to 15, inclusive;
Secs. 17 to 30, inclusive, partly unsurveyed;
Sec. 32;
Sec. 33. N½ and N½S½;
Secs. 34, 35, and 36, partly unsurveyed.
T. 14 N., R. 1 E.,
Sec. 15;
Secs. 17 to 22, inclusive;
Secs. 25 to 35, inclusive.
T. 11 N., R. 2 E.,
Secs. 2, 3, 4, 6, and 7;
Sec. 8, N½;
Secs. 10, 11, 12, 14, 15, 18, 20, 22, 23, 24, 26, 27, 28, 32, and 34;
Sec. 35, W½.
T. 12 N., R. 2 E.,
Sec. 6, unsurveyed;
Sec. 7, lots 1, 2, and 3, and W½NE¼;
Sec. 15, N½NE¼;
Secs. 18, 20, 22, 24, and 26;
Sec. 28, N½ and N½S½;
Sec. 32, SW¼;
Sec. 34.
T. 11 N., R. 3 E.,
Sec. 1, S½SW¼, excluding patented land;
Sec. 2, excluding patented land;
Secs. 4, 6, 7, 8, and 10;
Sec. 11, excluding patented land;
Sec. 12, excluding patented land;
Secs. 14, 15, 18, and 19;
Sec. 20, N½;
Secs. 22, 23, 24, 26, 27, and 28;
Sec. 30, lot 1 of SW¼ and lot 2 of SW¼;
Sec. 31.
T. 12 N., R. 3 E.,
Secs. 20 and 22;
Sec. 23, N½;
Secs. 24 and 26;
Secs. 27, lots 7 and 9, and NW¼SW¼;
Secs. 28, 30, 32, and 34.
T. 18 N., R. 3 E.,
Sec. 13, N½, unsurveyed;
Sec. 14, N½, unsurveyed;
Sec. 15, N½, unsurveyed.
T. 11 N., R. 4 E.,
Secs. 2, 4, 6, 8, 10, 12, 14, 18, 19, 20, and 22;
Sec. 24, N½NE¼NE¼, SW¼NE¼NE¼, NW¼NE¼, NW¼SW¼NE¼, N½NW¼, SW¼NW¼, N½SE¼NW¼, SW¼SE¼NW¼, and NW¼NW¼SW¼;
Sec. 27, N½NE¼NE¼, SW¼NE¼NE¼, NW¼NE¼, NW¼SW¼NE¼, N½NW¼, SW¼NW¼, N½SE¼NW¼, and SW¼SE¼NW¼;
Sec. 28, N½, N½SW¼, SW¼SW¼, N½SE¼SW¼, NW¼SE¼, and N½NE¼SE¼;
Sec. 30.
T. 12 N., R. 4 E.,
Sec. 19, lots 1 to 5, inclusive, SE¼NW¼; S½NE¼, and SE¼;
Secs. 20 to 24, inclusive, partly unsurveyed;
Sec. 25, N¼ and SE¼;
Sec. 26;
Sec. 27, lots 1 and 2, W½NE¼, and NW¼;
Secs. 28, 30, 32, and 34.
T. 11 N., R. 5 E.,
Secs. 4, 6, and 8;
Sec. 10, N½NW¼NW¼ and SW¼NW¼NW¼;
Sec. 18, lot 1 of NW¼, lot 2 of NW¼, lot 1 of SW¼, lot 2 of SW¼, NE¼, NW¼SE¼, NW¼SW¼SE¼, N½NE¼SE¼, and SW¼NE¼SE¼.
T. 12 N., R. 5 E.,
Secs. 29 and 20;
Sec. 21, W½;
Sec. 28, W½;
Secs. 29, 30, and 32.
T 18 N., R. 5 E.,
Sec. 13, NE¼SE¼.
T. 12 N., R. 6 E.,
Sec. 5, lot 1 of NE¼, lot 2 of NE¼, E½SW¼, and SE¼;
Sec. 8, E½ and E½W½.
T. 18 N., R. 6 E.,
Sec. 13, That portion within WSA CDCA 220 (South Saddle Peak Mtns.)
Sec. 14;
Sec. 15, That portion within WSA CDCA 220 (South Saddle Peak Mtns.);
Sec. 17, NE¼ and that portion within WSA CDCA 220 (South Saddle Peak Mtns.)
Sec. 18, That portion within WSA CDCA 220 (South Saddle Peak Mtns.)
Sec. 22, That portion within WSA CDCA 220 (South Saddle Peak Mtns.)
Sec. 23, That portion within WSA CDCA 220 (South Saddle Peak Mtns.)
Sec. 24, That portion within WSA CDCA 220 (South Saddle Peak Mtns.)
T. 11 N., R. 1 W.,
Secs. 2, 3, 4, 6, 7, 8, 10, 11 and 12.
T. 12 N., R. 1 W.,
Secs. 31, 32, 34, and 35.
T. 11 N., R. 2 W.,
Secs. 2 and 3;
Sec. 10, N½, NE¼SW¼, N½SE¼, and N½S½SE¼;
Sec. 11, E½, NW¼, and N½S½SW¼;
Sec. 12.
T. 12 N., R. 2 W.,
Secs. 34 and 35.

The areas described aggregate 166,611 acres in San Bernardino County.

At 10 a.m. on October 1, 1993, the lands were opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on October 1, 1993, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

At 10 a.m. on October 1, 1993, the lands were opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has

provided for such determinations in local courts.

Dated: October 19, 1993.

Nancy J. Alex,

Chief, Lands Section.

[FR Doc. 93-26559 Filed 10-27-93; 8:45 am]

BILLING CODE 4310-40-M

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-783652

Applicant: Richard L. Pillar, Dixon, IL 61021.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. Fred Burchell, "Mpongo Park", East London, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT-676811

Applicant: U.S. Fish and Wildlife Service, Regional Director—Region 2, Albuquerque, NM.

The applicant requests amendment to their current permit to include take activities for bone cave harvestmen (*Texella reyesi*), tooth cave ground beetle (*Rhadine persephone*), Krestschmarr cave mold beetle (*Texamaurops reddelli*), coffin cave mold beetle (*Batrisodes texanus*), and Pima pineapple cactus (*Coryphantha scheeri* var. *robustispina*), for the purpose of scientific research and enhancement of propagation or survival of the species as prescribed by Service recovery documents.

PRT-676811

Applicant: U.S. Fish and Wildlife Service, Regional Director—Region 2, Albuquerque, NM.

Applicant requests amendment to their current permit to include take activities with the following species: star cactus (*Astrophytum asterias*), Rio Grande silvery minnow (*Hybognathus amarus*), and Arizona willow (*Salix arizonica*) if and when they become Federally protected as endangered or threatened by the U.S. Endangered Species Act.

PRT-697819

Applicant: U.S. Fish and Wildlife Service, Regional Director—Region 4, Atlanta, GA.

The applicant requests amendment to their current permit to include take activities for Kemp's (Atlantic) ridley sea turtle (*Lepidochelys kempii*) and 4 species of plants located throughout the southeastern United States for the purpose of scientific research and enhancement of propagation or survival of the species as prescribed by Service recovery documents.

PRT-697819

Applicant: U.S. Fish and Wildlife Service, Regional Director—Region 4, Atlanta, GA.

The applicant requests amendment to their current permit to include take activities for Alabama sturgeon (*Scaphirhynchus suttkusi*), Appalachian elktoe (*Alasmidonta raveneliana*), royal snail (*Pyrgulopsis*) (=*Marstonia*) *ogmorphaphe*), and Anthony's riversnail (*Athearnia anthonyi*), Etowah darter (*Etheostoma* (*Ulocentra*) sp.), Cherokee darter (*Etheostoma* (*Nothonotus*) sp.), relict darter (*Etheostoma chienese*), bluemask darter (*Etheostoma* (*Doration*) sp.), and 12 species of plants located throughout the southeastern United States, if and when they become Federally protected as endangered or threatened by the U.S. Endangered Species Act.

PRT-702631

Applicant: U.S. Fish and Wildlife Service, Regional Director—Region 1, Portland, OR.

The applicant requests amendment to their current permit to include take activities for Delhi sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*), Dugong (*Dugong dogon*), Riverside fairy shrimp (*Streptocephalus woottoni*), giant garter snake (*Thamnophis gigas*), Oregon chub (*Oregonichthys crameri*), Loch Lomond coyote-thistle (*Eryngium constancei*), MacFarlane's four-o'clock (*Mirabilis macfarlanei*), Applegate's milkvetch (*Astragalus applegatei*), Marsh sandwort (*Arenaria paludicola*), Gambel's watercress (*Rorippa gambellii*), Ka'u silversword (*Argyroxiphium kauense*), Nelson's checkermallow (*Sidalcea nelsoniana*) and 3 Riverside plants.

PRT-702631

Applicant: U.S. Fish and Wildlife Service, Regional Director—Region 1, Portland, OR.

The applicant requests amendment to their current permit to include take activities for Peninsular bighorn sheep (*Ovis candensis cremnobates*), Kootenai river white sturgeon (*Acipenser transmontanus*), Pahrump poolfish (*Empetrichtys latos*), tidewater goby (*Eucyclogobius newberryi*), Morro shoulderband snail (*Helminthoglypta walkeriana*), 5 species of shrimp with 5 species of California plants, Mann's bluegrass (*Poa mannii*), Pamakani (*Tetramolopium capillare*), wahane (*Pritchardia aylmer-robinsonii*), Western lily (*Lilium-occidentale*), 2 California grassland plants, 4 Hawaiian ferns, 3 Hawaiian *Melicope* plants, 3 Hawaiian plants, (Nihoa), 22 Hawaii Island plants, 11 Koolau Mountain plants, 6 Los Angeles Basin plants, 12 San Francisco plants, 3 Waianae Mountain plants, 16 Molokai plants, 6 California chaparral plants, 8 California vernal pool plants, 12 Hawaiian plants, 5 California limestone plants, 5 desert milkvetch taxa and 23 Kauai plants, if and when they become Federally protected as endangered or threatened by the U.S. Endangered Species Act.

PRT-783129

Applicant: El Paso Zoo, El Paso, TX.

The applicant requests a permit to import one Asian elephant (*Elephas maximus*) from African Lion Safari & Game Farm, Ltd., Cambridge, Ontario, Canada for the purpose of enhancement of survival through conservation education.

PRT-788197

Applicant: Donald R. Hawkins, Mobile, AL.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. J.C.P. vanDruten, "Riekertsfontein", Victoria West, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT-783758

Applicant: James R. Spines, Mobile, AL.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. J.C.P. vanDruten, "Riekertsfontein", Victoria West, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT-783069

Applicant: Northern Animal Exchange, Abbotsford, British Columbia, Canada.

The applicant requests a permit to import and reexport one male captive-born jaguar (*Panthera onca*) for the purpose of enhancement of propagation and survival through conservation education and breeding.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are

available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: October 22, 1993.

Joan Canfield,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 93–26529 Filed 10–27–93; 8:45 am]

BILLING CODE 4310–55–M

Endangered and Threatened Wildlife and Plants; Extension of Public Comment Period on Draft Environmental Impact Statement to Reintroduce Gray Wolves Into Yellowstone National Park and Central Idaho

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of extension of public comment period on draft Environmental Impact Statement (EIS).

SUMMARY: The U.S. Fish and Wildlife Service (Service) extends the comment period for review of the draft EIS on the reintroduction of gray wolves into Yellowstone National Park and central Idaho from October 15, 1993, to November 26, 1993.

DATES: Comments on the draft EIS must be received on or before November 26, 1993.

ADDRESSES: Persons wishing to review the draft EIS may obtain further information or a copy by contacting the U.S. Fish and Wildlife Service, Gray Wolf EIS, P.O. Box 8017, Helena, Montana 59601. Written comments and materials regarding the plan should be addressed to Mr. Ed Bangs at the above address. Comments and materials received will be available for public inspection, by appointment during normal business hours, at the above address.

FOR FURTHER INFORMATION CONTACT: Ed Bangs, U.S. Fish and Wildlife Service, at the above address.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the National Environmental Policy Act, the Service is preparing an EIS for the reintroduction of gray wolves into Yellowstone National Park and central Idaho. The Service published a Notice of Availability of a draft EIS on this proposed gray wolf reintroduction on July 15, 1993 (58 FR 38134). It established a public comment period ending on October 15, 1993. In addition, the Service announced public hearings to receive comments on the draft EIS on August 11, 1993 (58 FR 42741). After these public hearings, the Service has received requests for extending the comment period to allow interested parties additional time to submit written comments. Due to the complexity of the draft EIS, the Service is extending the comment period from October 15 to November 26, 1993, in order to receive this additional input. All comments received by November 26, 1993, will be considered prior to preparation of the final EIS.

Dated: October 21, 1993.

John L. Spinks, Jr.,

Deputy Regional Director.

[FR Doc. 93–26532 Filed 10–27–93; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Mississippi River Coordinating Commission; Meeting

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule for the forthcoming meeting of the Mississippi River Coordinating Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Public Law 92–463).

MEETING DATE AND TIME: December 14, 1993; 12:30 p.m. until 5:30 p.m. and 7 p.m. until 9:30 p.m.

ADDRESS: Radisson Hotel, 11 East Kellogg Boulevard, St. Paul, Minnesota.

The agenda of the meeting consists of continued Commission review and discussion of input received from the public on the draft comprehensive management plan and draft environmental impact statement for the Mississippi National River and Recreation Area.

FOR FURTHER INFORMATION CONTACT: Superintendent, Mississippi National River and Recreation Area, 175 East Fifth Street, suite 418, St. Paul, Minnesota 55101, (612) 290–4160.

SUPPLEMENTARY INFORMATION: The Mississippi River Coordinating Commission was established by Public Law 100–696, November 18, 1988.

Dated: October 15, 1993.

William W. Schenk,

Acting Regional Director, Midwest Region.

[FR Doc. 93–26593 Filed 10–27–93; 8:45 am]

BILLING CODE 4310–70–P

Salt River Bay National Historical Park and Ecological Preserve Commission; Meeting

AGENCY: National Park Service, Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands Commission, Interior.

ACTION: Notice of advisory commission meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands Commission will be held at 9 a.m. to 12 noon, at the following location and date.

DATES: November 12, 1993.

LOCATION: District Court, 3rd Floor, Jury Selection Room, 30313 Estate Golden Rock, Lot #13, St. Croix, Virgin Islands 00820–4355.

FOR FURTHER INFORMATION CONTACT: Francis Peltier, Superintendent, Virgin Islands National Park, 6310 Estate Nazareth #10, St. Thomas, Virgin Islands 00820–1406.

SUPPLEMENTARY INFORMATION: The purpose of the Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands Commission is to make recommendations on how all lands and waters within the boundaries of the park can be jointly managed by the Governments of the United States Virgin Islands and the United States in accordance with Public Law 102–247; to consult with the Secretary of the Interior on the development of the general management plan required by section 105 of Public Law 102–247; and to provide advice and recommendations to the Government of the United States Virgin Islands, upon request of the Government of the United States Virgin Islands.

The matters to be discussed at this meeting include administrative items; solicitor's response to questions raised at the previous meeting; further interpretation of the enabling legislation; recommendations to the Virgin Islands and United States Governments on the co-management of the area.

This meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may also file with the commission a written statement concerning the matters to be discussed. Written statements may also be submitted to the Acting Superintendent at the address above. Minutes of the meeting will be available at the Virgin Islands National

Park headquarters at the above address for public inspection approximately 4 weeks after the meeting.

Dated: October 21, 1993.

C.W. Ogle,

Acting Regional Director, Southeast Region.

[FR Doc. 93-26594 Filed 10-27-93; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-351]

Change of Commission Investigative Attorney

In the Matter of certain removable hard disk cartridges and products containing same.

Notice is hereby given that, as of this date, Jeffrey R. Whieldon, Esq. of the Office of Unfair Import Investigations is designated as the Commission investigative attorney in the above-cited investigation instead of Sarah C. Middleton, Esq.

The Secretary is requested to publish this Notice in the **Federal Register.**

Dated: October 22, 1993.

Lynn I. Levine,

Director, Office of Unfair Import Investigations.

[FR Doc. 93-26499 Filed 10-27-93; 8:45 am]

BILLING CODE 7020-02-P

[Investigation No. 337-TA-357]

Change of Commission Investigative Attorney

In the Matter of certain sports sandals and components thereof.

Notice is hereby given that, as of this date, Jeffrey R. Whieldon, Esq. of the Office of Unfair Import Investigations is designated as the Commission investigative attorney in the above-cited investigation instead of Sarah C. Middleton, Esq.

The Secretary is requested to publish this Notice in the **Federal Register.**

Dated: October 22, 1993.

Lynn I. Levine,

Director, Office of Unfair Import Investigations.

[FR Doc. 93-26501 Filed 10-27-93; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Microelectronics and Computer Technology Corp.

Notice is hereby given that, on September 15, 1993, pursuat to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Microelectronics and Computer Technology Corporation ("MCC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the changes are as follows: (1) Comsat Video Enterprises, Inc., Bethesda, MD, has agreed to become a participant in the "First Cities" project in MCC's ATLAS subsidiary; (2) Motorola, Inc., Schaumberg, IL, an existing MCC shareholder, has agreed to become a participant in MCC's RwoH Project within MCC's Packaging/ Interconnect Technology Program.

On December 21, 1984, MCC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on January 17, 1985 (50 FR 2633).

The last notification was filed with the Department on June 17, 1993. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on August 30, 1993 (58 FR 45532).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93-26494 Filed 10-27-93; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—OSINET Corp.

Notice is hereby given that, on August 24, 1993, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), OSINET Corporation ("OSINET") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing certain information. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the changes are as follows: Retix, Santa Monica, CA, became a Regular member of OSINET on July 19, 1993. Martin Marietta Energy Systems ceased membership in OSINET effective May 27, 1993. Concurrent Computer Corporation, and Novell, Inc., ceased membership in OSINET effective June 10, 1993. Control Data Corporation has been reorganized and its membership in OSINET has been continued by Control Data Systems, Inc. In addition, the Corporation for Open Systems International, identified in OSINET's original **Federal Register** notice, as a member of OSINET, at no time has been, and is not currently, a member of OSINET.

On April 15, 1991, OSINET filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on November 19, 1991 (56 FR 58400).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93-26493 Filed 10-27-93; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Switched Multi-Megabit Data Service Interest Group

Notice is hereby given that, on September 10, 1993, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Switched Multi-Megabit Data Service Interest Group ("the Group") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes to its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, British Telecom, Atlanta, GA, is an additional party to the Group, and KDD America is no longer a party to the Group.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the Group intends to file additional written notifications disclosing all changes in membership.

On April 19, 1991, the Group filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the

Act on May 23, 1991 (56 FR 23723). The last notification was filed with the Department on April 9, 1993. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on May 17, 1993 (58 FR 28901).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93-26492 Filed 10-27-93; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 93-083]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting on Materials and Structures

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a NAC, Aeronautics Advisory Committee meeting on materials and structures.

DATES: November 18, 1993, 8:30 a.m. to 5 p.m.; and November 19, 1993, 8 a.m. to 4:30 p.m.

ADDRESSES: National Aeronautics and Space Administration, Langely Research Center, room 124, Building 1229, Hampton, VA 23681.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles Blankenship, National Aeronautics and Space Administration, Langely Research Center, Hampton, VA 23681, 804/864-6005.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Advanced Subsonic Initiatives

—High Speed Research Initiatives

—Selected Critical Technology Programs

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: October 22, 1993.

Timothy M. Sullivan,

Advisory Committee Management Officer.

[FR Doc. 93-26506 Filed 10-27-93; 8:45 am]

BILLING CODE 7510-01-M

[Notice 93-084]

Intent To Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant a patent license.

SUMMARY: NASA hereby gives notice of intent to grant Dr. Fred Volinsky of Salem, Massachusetts, an exclusive, royalty-bearing, revocable license to practice the invention described and claimed in U.S. Patent No. 5,116,543, entitled "Whole Body Cleaning Agent Containing N-Acyltaurate." The proposed patent license will be for a limited number of years and will contain appropriate terms, limitations and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR part 1245, subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license, unless within 60 days of the Date of this Notice, the Director of Patent Licensing receives written objections to the grant, together with any supporting documentation. The Director of Patent Licensing will review all written objections to the grant and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the partially exclusive license.

DATES: Comments to this notice must be received by December 27, 1993.

ADDRESSES: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff, (202) 358-2041.

Dated: October 18, 1993.

Edward A. Frankle,

General Counsel.

[FR Doc. 93-26507 Filed 10-27-93; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on November 4-6, 1993, in room P-110, 7920 Norfolk Avenue, Bethesda, Maryland. Notice of this meeting was published in the **Federal Register** on September 23, 1993.

Thursday, November 4, 1993

8:30 a.m.-8:45 a.m.: Opening Remarks by ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting and comment briefly regarding items of current interest. During this session, the Committee will discuss priorities for preparation of ACRS reports.

8:45 a.m.-10:15 a.m.: PRA Working Group Final Report (Open)—The Committee will review and comment on the proposed Final Report of the PRA Working Group and an associated Commission paper. Representatives of the NRC staff will participate.

10:30 a.m.-11:30 a.m.: Preapplication Safety Evaluation Report (PSER) for the PRISM Design (Open)—The Committee will review and comment on the NRC staff's draft PSER for the PRISM liquid-metal-cooled reactor design. Representatives of the NRC staff will participate.

11:30 a.m.-12:15 p.m.: Regulatory Treatment of Non-Safety Systems (Open)—The Committee will review and comment on the proposed NRC staff positions on issues related to the regulatory treatment of non-safety systems. Representatives of the NRC staff will participate.

1:15 a.m.-3:15 p.m.: Safeguards and Security Requirements (Open/Closed)—The Committee will review and comment on the proposed commission paper on Internal Threat, SECY-93-270, "Proposed Amendments to 10 CFR Part 73 to Protect Against Malevolent Use of Vehicles at Nuclear Power Plants," and safeguards and security requirements for the ABWR design.

A portion of this session may be closed to discuss safeguards and security information. Representatives of the NRC staff will participate.

3:30 a.m.-6 p.m.: Instrumentation and Control Systems and Certified Design Material for the ABWR Design (Open/Closed)—The Committee will review and comment on Chapter 7, "Instrumentation and Control Systems," of the Standard Safety Analysis Report for the ABWR design and Certified Design Material (Tier 1) for the Instrumentation and Control Systems, Human Factors, Radiation Protection, and Piping Design. Representatives of the NRC staff and the General Electric Nuclear Energy (GE) will participate. A portion of this session may be closed to discuss information deemed proprietary by GE.

6:00 p.m.-6:30 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports regarding items considered during this meeting.

Friday, November 5, 1993

8:30 a.m.-8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting.

8:35 a.m.-10:15 a.m.: AP600 Confirmatory Test Program/Modifications to the ROSA Facility (Open/Closed)—The Committee will review and comment on the adequacy of the proposed text matrix and modifications and additions to the ROSA test facility prior to performing the tests proposed by the NRC staff in support of the AP600 design certification review. Representatives of the NRC staff will participate.

A portion of this session may be closed to discuss information deemed proprietary by the Westinghouse Electric Corporation.

10:30 a.m.–12:30 p.m.: Westinghouse Analytical and Experimental Programs Related to the Certification of the AP600 Design (Open/Closed—The Committee will hear briefings by and hold discussions with representatives of the Westinghouse Electric Corporation and the NRC staff regarding the Westinghouse Analytical and experimental programs related to the AP600 passive plant design certification effort.

A portion of this session may be closed to discuss information deemed proprietary by the Westinghouse Electric Corporation.

1:30 p.m.–2:30 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports regarding items considered during this meeting.

2:30 p.m.–3:15 p.m.: Future ACRS Activities (Open)—The Committee will discuss topics proposed for consideration during future ACRS meetings.

3:30 p.m.–3:45 p.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss responses from the NRC Executive Director for Operations to recent ACRS comments and recommendations.

3:45 p.m.–4:45 p.m.: Proposed Technical Training Programs (Open)—The Committee will hear a briefing by and hold discussions with representatives of the NRC's Office for Analysis and Evaluation of Operational Data (AEOD) on the technical training programs being developed by AEOD for the Technical Training Center in Chattanooga, Tennessee.

4:45 p.m.–6:30 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports regarding items considered during this meeting.

Saturday, November 6, 1993

8:30 a.m.–12 noon: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports regarding items considered during this meeting.

12 Noon–12:45 p.m.: Report of the Planning and Procedures Subcommittee (Open)/Closed)—The Committee will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business and internal organizational and personnel matters relating to ACRS staff members.

A portion of this session may be closed to public attendance to discuss matters that relate solely to internal personnel rules and practices of this advisory committee and to discuss matters the release of which would represent a clearly unwarranted invasion of personnel privacy.

12:45 p.m.–1:30 p.m.: ACRS Subcommittee Activities (Open)—The Committee will hear reports and hold discussions regarding the status of ACRS subcommittee activities.

1:30 p.m.–2 p.m.: Miscellaneous (Open)—The Committee will discuss miscellaneous matters related to the conduct of Committee activities and complete discussion of topics that were not completed during previous meetings as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 30, 1993 (58 FR 51118). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during the open portions of the meeting, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director, Dr. John T. Larkins, as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the ACRS Executive Director prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Public Law 92–463 that it is necessary to close portions of this meeting noted above to discuss information that involves the internal personnel rules and practices of this advisory Committee per 5 U.S.C. 552b(c)(2), to discuss safeguards and security information per 5 U.S.C. 552b(c)(3), to discuss proprietary information applicable to the matters being considered per 5 U.S.C. 552b(c)(4), and to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by contacting the ACRS Executive Director, Dr. John T. Larkins (telephone 301–492–4516), between 7:30 a.m. and 4:15 p.m. EDT.

Dated: October 22, 1993.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 93–26482 Filed 10–27–93; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Advanced Boiling Water Reactors; Meeting

The ACRS Subcommittee on Advanced Boiling Water Reactors will hold a meeting on November 16–17, 1993, in room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, November 16, 1993—8:30 a.m. until the conclusion of business.

Wednesday, November 17, 1993—8:30 a.m. until the conclusion of business.

The Subcommittee will continue its review of the NRC staff's Final Safety Evaluation Report for the General Electric Nuclear Energy (GE) Advanced Boiling Water Reactor (ABWR) design. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this review. Representatives of GE and its consultants will participate, as appropriate.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Dr. Medhat El-Zeftawy (telephone 301/492–9901) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual five days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: October 21, 1993.

Paul Boehnert,

Acting Chief, Nuclear Reactors Branch.

[FR Doc. 93–26483 Filed 10–27–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–325 and 50–324]

Carolina Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment Nos. 166 and 197 to Facility Operating License Nos. DPR–71 and DPR–62, respectively, issued to Carolina Power & Light Company (the licensee) that revised the Technical Specifications for operation of the Brunswick Steam Electric Plant, Units 1 and 2, located in Brunswick County, North Carolina. Amendment No. 166 for

Unit 1 is effective as of the date of issuance, and Amendment No. 197 for Unit 2 will be effective upon completion of Refueling Outage No. 10.

The amendments revise the Technical Specifications to allow the replacement of existing Riley, GEMAC and Fenwal steam leak detection equipment with General Electric Company NUMAC leak detection equipment. The proposed amendment also revises surveillance requirements for steam leak detection instrumentation associated with the reactor core isolation cooling system, the high pressure coolant injection system, and the reactor water cleanup system. The specific changes include:

(1) Delete the channel check surveillance test for the reactor water cleanup system isolation high differential flow function.

(2) Extend and standardize the channel functional test and channel calibration suveillance frequencies for the reactor water cleanup, high pressure coolant, injection, and reactor core isolation cooling system isolation ambient and differential temperature functions.

(3) Increase the reactor water cleanup system isolation differential flow time delay trip setpoint and allowable value from "less than or equal to 45 seconds" to "less than or equal to 30 minutes."

(4) Increase the reactor water cleanup system isolation differential flow trip setpoint and allowable value from "less than or equal to 53 gal/min" to "less than or equal to 73 gal/min."

(5) Delete the instrument response time requirement for the high pressure coolant injection system isolation steam line tunnel temperature—high function.

(6) Delete the instrument response time requirement for the reactor water cleanup system isolation area temperature—high and area ventilation differential temperature—high functions.

(7) Delete the instrument response time requirement for the reactor water clean system isolation differential flow—high function.

(8) Revise the description of the reactor water cleanup isolation differential flow delay trip function to reflect elimination of the time delay relays per the new system configuration.

(9) Add a new reactor water cleanup system isolation area temperature function for piping outside of the reactor water cleanup room.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on November 24, 1992 (57 FR 55287). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment (58 FR 45535).

For further details with respect to the action see (1) the application for amendment dated September 14, 1992, as supplemented January 13, January 25, February 8, May 11, June 18, July 26, and September 21, 1993; (2) Amendment No. 166 to License No. DPR-71 and Amendment No. 197 to License No. DPR-62; (3) the Commission's related Safety Evaluation and Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, and at the local public document room located at the University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Dated at Rockville, Maryland, this 14th day of October 1993.

For the Nuclear Regulatory Commission.

Patrick D. Milano,

Project Manager, Project Directorate—II/I, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93-26561 Filed 10-27-93; 8:45 am]

BILLING CODE 7590-01-M

RESOLUTION TRUST CORPORATION

Coastal Barrier Improvement Act; Property Availability; Camp Verde Property, Yavapai County, AZ, Vallejo Property, Solano County, CA

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the properties known as Camp Verde, located in Yavapai County, Arizona, and Vallejo, located in Solano County, California, are affected by section 10 of the Coastal Barrier Improvement Act of 1990 as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the properties may be mailed or faxed to the RTC until January 26, 1994.

ADDRESSES: Copies of detailed descriptions of the properties, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. E. Ted Hine, Resolution Trust Corporation, California Field Office, 4000 MacArthur Boulevard, East Tower, suite 315, Newport Beach, CA 92660-2516, (714) 263-4648; Fax (714) 852-7770.

SUPPLEMENTARY INFORMATION: The Camp Verde property is located about four miles northwest of Camp Verde, Arizona, on State Highway 260. The property is located within the Verde River Valley, has recreational value, and is adjacent to Prescott National Forest. The Camp Verde property consists of approximately 262.58 acres of undeveloped land. The property is rectangular in shape, surrounded by minimal development, and has frontage on State Highway 260.

The Vallejo property is located on the southeast corner of Columbus and Redwood Parkways in Vallejo, California. The property has recreational value and is adjacent to the Blue Rock Springs Park, Blue Rock Springs-Ascot Open Space Corridor Trail, and dedicated open space managed by the City of Vallejo. The Vallejo property consists of approximately 78 acres of undeveloped land with habitat for several rare endemic species of wildlife including the Suisan shrew and burrowing owl. The properties are covered properties within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101-591 (12 U.S.C. 1441a-3).

Written notice of serious interest in the purchase or other transfer of property must be received on or before January 26, 1994, by the Resolution Trust Corporation at the appropriate address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest must be submitted in the following form:

Notice of Serious Interest

RE: [insert name of property]

Federal Register publication date:

[insert **Federal Register** publication date]

1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, P.L. 101–591, section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)), including, for qualified organizations, a determination letter from the Internal Revenue Service regarding the organization's status under section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 170(h)(3)).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).
4. Declaration of entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.
5. Authorized Representative (Name/Address/Telephone/Fax).

List of Subjects: Environmental protection.

Dated: October 22, 1993.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 93–26537 Filed 10–27–93; 8:45 am]

BILLING CODE 6714–01–M

Coastal Barrier Improvement Act; Property Availability; Stallion Springs, Kern County, CA; Sky Mountain Resort, Kern County, CA

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the properties known as Stallion Springs and Sky Mountain Resort, located in Kern County, California, are affected by section 10 of the Coastal Barrier Improvement Act of 1990 as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the properties may be mailed or faxed to the RTC until January 26, 1994.

ADDRESSES: Copies of detailed descriptions of the properties, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. Steven Reid, Resolution Trust Corporation, Dallas Field Office, 3500 Maple Avenue, Riverchon Plaza, 18th Floor, Dallas, TX 75219–3935, (214) 443–4738; Fax (214) 443–4825.

SUPPLEMENTARY INFORMATION: The Stallion Springs property is located in the unincorporated community of Stallion Springs, 14 miles west of Tehachapi, California. The property has recreational value and a portion of it surrounds property managed by the Bureau of Land Management for conservation purposes. The Stallion Springs property consists of approximately 9,270 acres of undeveloped land used primarily for grazing purposes.

The Sky Mountain Resort property is also located in the unincorporated community of Stallion Springs 12 miles west and south of Tehachapi, California. The property has recreational value and surrounds a parcel of land managed by the Bureau of Land Management for conservation purposes. The Sky Mountain Resort property consists of approximately 4,600 acres of undeveloped land which is dedicated for a wilderness preserve. The properties are covered properties within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101–591 (12 U.S.C. 1441a–3).

Written notice of serious interest in the purchase or other transfer of property must be received on or before January 26, 1994, by the Resolution Trust Corporation at the appropriate address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;
2. Agencies or entities of State or local government; and
3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest must be submitted in the following form:

NOTICE OF SERIOUS INTEREST

RE: [insert name of property]

Federal Register Publication Date:

[insert **Federal Register** publication date]

1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, P.L. 101–591, section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)), including, for qualified organizations, a determination letter from the Internal Revenue Service regarding the organization's status under section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 170(h)(3)).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).
4. Declaration of entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.
5. Authorized Representative (Name/Address/Telephone/Fax).

List of Subjects: Environmental protection.

Dated: October 22, 1993.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 93–26538 Filed 10–27–93; 8:45 am]

BILLING CODE 6714–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Rel. No. 19810; 812–8556]

Allied Capital Corp., et al.; Application for Exemption

October 22, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("Act").

APPLICANTS: Allied Capital Corporation ("Allied Capital"), Allied Capital Lending Corporation ("Allied Lending"), and Allied Capital Advisers, Inc. ("Allied Advisers").

RELEVANT ACT SECTIONS: Order requested under sections 17(d) and 57(a)(4) and rule 17d–1.

SUMMARY OF APPLICATION: Applicants seek a conditional order permitting Allied Capital and Allied Lending to make joint public offerings of shares of Allied Lending.

FILING DATES: The application was filed on September 7, 1993 and amended on October 14, 1993 and October 21, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 16, 1993, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested.

Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 1666 K Street, NW., suite 901, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: James E. Anderson, Staff Attorney, at (202) 272–7027, or C. David Messman, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Allied Capital is a business development company that acts as a holding company for certain registered investment company subsidiaries.[1] Allied Lending is a registered closed-end investment company and a wholly-owned subsidiary of Allied Capital. Allied Lending is approved as a small business lending company ("SBLC") by the U.S. Small Business Administration ("SBA").[2] Allied Advisers, a registered investment adviser, acts as investment adviser to Allied Capital, and will act as investment adviser to Allied Lending following the proposed public offering of Allied Lending's shares.

2. Applicants request relief under sections 17(d) and 57(a)(4) and rule 17d–1 to permit Allied Lending and Allied Capital to make a joint underwritten public offering of shares of Allied Lending. Applicants also request that the order cover Allied Capital's participation in future public offerings of Allied Lending's shares and payments made to Allied Lending under a tax indemnification agreement with Allied Capital relating to liability incurred prior to the public offering.

3. Allied Lending proposes to sell to underwriters, for public offering, 1,700,000 newly issued shares (plus up to an additional 350,000 shares to cover over-allotments). Concurrently, Allied Lending will offer up to 143,370 shares directly to directors, officers, and employees of Allies Lending, Allied Capital, and Allied Advisers at the same price at which shares are sold to the underwriters. The net proceeds of the sales will be received by Allied Lending, and a portion of the proceeds will be used to repay certain outstanding advances from Allied Capital.

4. Allied Capital proposes to sell to the underwriters, upon the same terms and conditions, at the same price, and as part of the same offering, 800,000 of the already issued and outstanding shares of Allied Lending held by Allied Capital. The net proceeds of the sale will be received by Allied Capital. Allied Capital and Allied Lending will pay the expenses of the offering in proportion to the number of shares sold by them.

5. All of the members of the board of directors of Allied Capital also are all of the members of the board of directors of Allied Lending. A majority of the directors, including a majority of the disinterested directors, have approved the proposed offering as being in the best interest of the shareholders of Allied Capital. Prior to the execution and delivery of the agreement to the underwriters, all but two of the directors of Allied Lending will resign, a representative of the underwriter will be appointed to the board, and the board of directors of Allied Capital will elect four persons who are not interested persons of Allied Capital, Allied Lending, or Allied Advisers to the board of Allied Lending. The board of directors of Allied Capital and the reconstituted board of Allied Lending, including a majority of the non-interested directors of both boards, are expected to approve the underwriting agreement.

6. Immediately prior to the execution and delivery of the underwriting agreement, Allied Lending will enter into an investment advisory agreement with Allied Advisers. The advisory agreement will take effect upon the receipt of Allied Lending of its share of the proceeds of the public offering. Prior to its execution and delivery, the investment advisory agreement will be approved by the board of directors of Allied Capital, as the governing body of Allied Lending's sole shareholder, and by a majority of the disinterested directors of Allied Lending. Allied Advisers will reduce its fees charged to Allied Capital by an amount equal to the value of the Allied Lending shares held by Allied Capital times the rate at which advisory or other asset based fees are charged by Allied Advisers to Allied Capital.

7. Following the public offering, Allied Capital will continue to hold between 34% and 38% of the outstanding shares of Allied Lending. Allied Capital intends eventually to dispose of its remaining interest in Allied Lending. In the event that Allied Lending makes future public offerings, Allied Capital may piggy-back all or a portion of its remaining Allied Lending shares. Such participation is subject to the approval of the boards of directors of Allied Lending and Allied Capital, including a majority of the non-interested directors of both boards, and will be made only on the same terms and conditions, including the price per share to be received by Allied Capital, as those received by Allied Lending. Allied Capital intends to distribute as a special dividend to its shareholders any shares of Allied Lending that it has not otherwise disposed of prior to December 31, 1998.

8. Allied Lending may have incurred certain liabilities for Federal income taxes with respect to 1992. Applicants determined that it would be fair that the risk of liability for such taxes remain with the shareholders of Allied Capital who were indirectly the shareholders of Allied Lending at the time such liabilities were incurred. Accordingly, Allied Capital and Allied Lending propose, to the sale of any shares to the underwriters and as a condition of such sale, to enter into a tax indemnification agreement.

9. Under the conditions of the 1976 Order, Allied Capital agreed, among other things, to own all of the outstanding stock of Allied Lending, elect as directors of Allied Lending only persons who are directors of Allied Capital, and submit all investment advisory contracts entered into by Allied Lending to the shareholders of Allied Capital for approval. The proposed order would supersede those conditions.

10. It is appropriate to supersede the condition imposed under the 1976 Order that requires approval by the shareholders of Allied Capital of any investment advisory contract entered into by Allied Lending. Following the public offering, it will be the new shareholders of Allied Lending (including Allied Capital as a minority shareholder) who will have an interest in Allied Lending's investment advisory contract. The new shareholders will be protected by the provisions of section 15 as they apply generally in the case of any initial public offering of a closed-end investment company's shares. Moreover, the interests of Allied Capital's shareholders are protected by the waiver of that portion of Allied Advisers' investment advisory fee that is based on Allied Capital's investment in Allied Lending.

[1] Allied Capital previously obtained exemptive relief to permit its holding company structure. Allied Capital Corporation, Investment Company Act Release Nos. 9502 (Nov. 1, 1976) (notice) and 9540 (Nov. 24, 1976) (order) (the "1976 Order").

[2] An SBLC is an entity that makes medium to long-term loans partially guaranteed by the SBA to small businesses. Allied Lending sells the guaranteed portion of the loans that it makes in the secondary market.

11. Allied Capital obtained exemptive relief permitting it to make consolidated reports on behalf of its subsidiaries.[3] Following the public offering, this relief will no longer be necessary as to Allied Lending because Allied Lending will become a public reporting company.

12. Over the years, Allied Capital obtained various orders under section 17(d) and rule 17d–1. None of the proposed joint transactions which those orders addressed, however, involved Allied Lending in any way. Allied Lending has always been and will hereafter be precluded by SBA regulations and policies from engaging in any loan transaction with any other Allied Capital entity or with any company in which any such entity has an equity interest.

13. Allied Capital and its subsidiaries obtained exemptive relief on four occasions under section 17(b) of the Act to permit Allied Capital to make investment in and advances to its investment company subsidiaries. In the case of Allied Lending, if the requested relief is granted and the public offering is consummated, Allied Capital's outstanding advances to Allied Lending will be repaid in full and Allied Capital will make no further investments in or advances to Allied Lending.

Applicants' Legal Conclusions

1. Section 17(d), for registered investment companies, and section 57(a)(4), for business development companies, make it unlawful for any affiliated person of such companies, acting as principal, to effect any transaction in which the companies are a joint or joint and several participant with the affiliated person in contravention of such rules and regulations as the SEC may prescribe for the purpose of limiting or preventing participation by such companies. Because Allied Capital owns more than 5% of the outstanding voting securities of Allied Lending, Allied Capital and Allied Lending are affiliated persons of one another under the definition in section 2(a)(3).

2. Rule 17d–1 was promulgated pursuant to section 17(d) and made applicable to business development companies pursuant to section 57(i). Under rule 17d–1, most joint transactions are prohibited unless approved by order of the SEC. In passing upon such applications, the SEC considers whether participation by a registered investment company or business development company is consistent with the provisions, policies, and purposes of the Act and not on a basis less advantageous than that of other participants.

3. In the proposed transactions, the basis of participation of Allied Capital and Allied Lending will be identical. Allied Capital and Allied Lending will receive the same price for their shares and each will bear their respective portion of the expenses. Moreover, the proposed transactions are consistent with the provisions, policies, and purposes of the Act.

Applicants' Conditions

1. From and after the sale of the shares authorized by the order, Allied Capital will vote its remaining shares of Allied Lending only in the same proportion as are voted the shares of Allied Lending's other shareholders, and will divest itself of all of its remaining shares of Allied Lending by no later than December 31, 1998.

2. If, for the purpose of such divestment, Allied Capital shall, with respect to any or all of its remaining shares of Allied Lending, participate in any future public offering by Allied Lending of its theretofore unissued shares, such offering shall be made only upon the same terms and conditions, including price to be received, as those upon which Allied Lending is selling its shares, and shall be subject to the approval by the non-interested directors of both Allied Capital and Allied Lending.

3. The board of directors of Allied Lending shall at all times consist of persons a majority of whom are not interested persons of Allied Lending, Allied Capital, or Allied Advisers.

4. Allied Advisers will reduce its fees charged to Allied Capital by an amount equal to the value of the Allied Lending shares held by Allied Capital times the rate at which advisory or other asset based fees are charged by Allied Advisers to Allied Capital.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–26595 Filed 10–27–93; 8:45 am]

BILLING CODE 8010–01–M

[3] Allied Capital Corporation, Investment Company Act Release Nos. 12371 (April 14, 1982) (notice) and 12440 (may 19, 1982) (order).

[Rel. No. IC–19812; 812–8380]

Ark Funds, et al.; Application for Exemption

October 22, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Ark Funds (including any existing or future series thereof), First National Bank of Maryland (the "Adviser"), and Fidelity Distributors Corporation (the "Distributor" or the "Administrator"), on their own behalf and on behalf of any registered investment company established or acquired in the future, or series thereof, that are in the same "group of investment companies" as that term is defined in rule 11a–3 under the Act (the "Future Funds" and together with the Ark Funds, the "Fund").

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from sections 2(a)(32), 2(a)(35), 18(f)(1), 18(g), 18(i), 22(c), and 22(d) of the Act and rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order that would permit the Fund (a) to issue and sell unlimited classes of shares representing interests in some or all of the Fund's investment portfolios, and (b) to assess and, under certain circumstances, waive a contingent deferred sales charge ("CDSC") on redemptions of certain shares.

FILING DATE: The application was filed on May 4, 1993 and amended on August 18, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 16, 1993, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. The Fund and the Distributor, 82 Devonshire Street, Boston, Massachusetts 02109; the Adviser, 25 South Charles Street, Baltimore, Maryland 21203.

FOR FURTHER INFORMATION CONTACT: Mary Kay Frech, Staff Attorney, at (202) 272–7648 or Barry D. Miller, Senior Special Counsel, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Fund is an open-end management investment company registered under the Act. The Fund currently offers seven series of shares representing interests in four money market portfolios and three non-money market portfolios.

2. The Adviser, a wholly-owned subsidiary of First Maryland Bancorp, manages the investments of each series of the Fund. The Administrator assists in the administration and operation of each series of the Fund. The Distributor sells shares of each series of the Fund as agent on behalf of the Fund.

3. Existing shares of each series of the Fund currently are sold and redeemed daily at net asset value without a sales or redemption charge and are available only to clients of the Adviser or its affiliated banks who have established trust, custodial, or money management relationships with the Adviser, its affiliated banks, or correspondent banks of the Adviser or their affiliated banks.

4. Applicants propose to establish a multiple distribution system (the "Multi-Class System") to enable the Fund to issue an unlimited number of classes of shares which will be sold under different sales arrangements including, but not limited to, sales at net asset value, or sales subject to a front-end sales charge or a CDSC. Applicants request authorization to differentiate among such classes in the following respects: Any such class (a) May be subject to a rule 12b–1 plan ("Rules 12b–1 Plan") and/or to a non-rule 12b–1 shareholder services plan ("Shareholder Services Plan") (Rule 12b–1 Plans and Shareholder Services Plans are referred to collectively as "Plans" and individually as "Plan") and may make different payments pursuant to such Plans ("Plan Payments"); (b) may bear different class expenses, as set forth in condition 1 below ("Class Expenses"); (c) may bear a different name or designation; (d) may be subject to different CDSC arrangements or CDSC and conversion arrangements; (e) will have exclusive voting rights with respect to any Rule 12b–1 Plan adopted exclusively with respect to such class, except as provided in condition 6 below; (f) may have different exchange and/or conversion privileges; and (g) may bear any other incremental expenses subsequently identified that may be properly allocated to such class, which allocation shall be approved by the SEC.

5. The Multi-Class System will be implemented by designating the existing class of shares as "Class A Shares" and initially issuing one additional, separate class of shares ("Class B Shares") identical in all respects to Class A shares except for class designation, the allocation of certain expenses, a Rule 12b–1 Plan, a Shareholder Services Plan, voting rights, and a front-end sales charge.

6. Under the Rule 12b–1 Plans of the proposed Multi-Class System, shares of a class of the Fund subject to such a Plan would bear the cost of selling and servicing such shares. The distribution fees paid to the Distributor under a Rule 12b–1 Plan would reimburse or compensate the Distributor for expenses that primarily are intended to result in the sale of the Fund's shares. The service fees under a Rule 12b–1 Plan would be payable to reimburse or compensate the Distributor and selling brokers for expenses of personnel, communications equipment, and related expenses in connection with servicing shareholder accounts and prospective shareholder inquiries and any additional service-related expenses that may be authorized from time to time by the board of trustees (the "Trustees"). Payments by the Fund pursuant to a Rule 12b–1 Plan would comply with applicable provisions of the NASD Rules of Fair Practice relating to distribution fees and service fees payable pursuant to such a Plan.

7. Under a Shareholder Services Plan, either the Fund, on behalf of a series, or the Distributor will enter into agreements with financial institutions, broker-dealers, and securities professionals ("Service Organizations") capable of providing support services to customers of the Service Organizations who from time to time beneficially own shares offered pursuant to a Shareholder Services Plan. The Service Organizations provide their customers with personal and account maintenance services such as maintaining account records for each shareholder, answering shareholder questions about their accounts, processing shareholder orders to purchase, redeem, and exchange shares, and similar personal services and/or shareholder account maintenance services as may be agreed to by the Service Organization in the future. Payments made to Service Organizations pursuant to a Shareholder Services Plan will not exceed 0.25% per annum of the average daily net asset value (or such other maximum amount as may be permitted under applicable NASD or SEC regulations in effect from time to time).

8. The Fund may establish additional classes of shares in connection with a Shareholder Services Plan or a Rule 12b–1 Plan or classes that are not subject to any such Plans. In the event that both a Rule 12b–1 Plan and a Shareholder Services Plan are adopted with respect to a single class of shares, the Trustees will assure that, to the extent that the Plans may be deemed to overlap in some respects, compensation shall not be duplicative as a result of the use of both Plans.

9. Expenses of the Fund that cannot be attributed directly to any one series or any particular class will be allocated among the Fund's series based on the relative aggregate net assets of the series.[1] Expenses attributable to a particular series of the Fund, but not a particular class, would be borne pro rata by its shareholders on the basis of the applicable net assets of the classes of such series, except for the fees paid under a Plan that has been adopted in connection with a class of shares and Class Expenses. All expenses incurred by a class of shares would be borne on a pro rata basis by the outstanding shares of such class. Class Expenses will consist only of those expenses specified in condition 1 below.

10. Dividends paid to holders of each class of shares in a series will be declared and paid on the same days and at the same times and, except with respect to the expenses of the Plan Payments and Class Expenses, will be determined in the same manner. However, because of the Plan Payments and Class Expenses that may be borne by each class of shares, the net income of (and dividends payable to) each class may be different from the net income of (and dividends payable to) the other classes of shares of a series. As a result, except for the money market portfolios, which maintain a constant net asset value per share and declare dividends on a daily basis, the net asset value per share of the classes of shares of each series of the Fund will vary.

11. Each class of shares generally may be exchanged only for shares of the same class in another series of the Fund and in all events will be limited to within the same "group of investment companies" as that term is defined in rule 11a-3 under the Act. All exchanges will comply with the provisions of rule 11a-3 under the Act. In two circumstances exchanges will be

[1] From time to time, the Fund may allocate expenses among its series using alternative methods, including allocations based on the number of shares of each such series.

permitted among classes of a particular series should a shareholder's status as an investor eligible for a particular class change, subject to terms fully disclosed in the Fund's current prospectuses.

12. First, exchanges among classes in a particular series will be made automatically ("Automatic Exchange Feature") when a shareholder of a class becomes eligible to purchase shares of another class and ineligible to purchase shares of the class originally held. This situation might occur when an investor who beneficially owned shares held by an institution becomes the holder of legal title by reason of a distribution from the institutional account. All exchanges as a result of the Automatic Exchange Feature will be at net asset value without the imposition of any sales load, exchange fee, or other charge. If a shareholder exchanges from a class not subject to a CDSC into a class which is subject to a CDSC, applicants will waive the imposition of the CDSC on the acquired shares at the time of redemption. Aplicants recognize that this feature may subject a shareholder to higher fees associated with the shares acquired as a result of the shareholder services to be provided after the exchange, but any class into which the shareholder is exchanged will be the class (for which the shareholder is eligible) with the lowest fees. Applicants assert that a shareholder's payment of higher fees associated with the acquired shares is not unfair because the shareholder would be receiving an enhanced level of shareholder services for such higher fees.

13. Second, exchanges among classes of a series also will be permitted when a shareholder of a class becomes eligible to purchase shares of another class without regard to the shareholder's continued eligibility to purchase shares of the class originally held. For example, an individual may hold shares of a retail class, but over time changes to the shareholder's financial status may render the shareholder eligible to purchase trust shares. At this point, the retail class shareholder may want his shares to be exchanged for trust shares so as to take advantage of the reduced cost of such shares due to the lack of a rule 12b-1 fee (although the shareholder may be charged separate trust fees by the bank as part of his relationship with the bank).

14. Applicants have requested a ruling of the Internal Revenue Service (the "IRS") to the effect that the exchange of shares of a class of a particular series for shares of another class of the same series of equivalent aggregate net asset value in both circumstances described above will not constitute a sale or other disposition for purposes of section 1001 of the Code, and the shareholder will be treated as holding the same shares both before and after any such exchange. The requested ruling would provide further that no gain or loss will be recognized by a series or its shareholders upon such an exchange, and the tax basis and holding period of the exchanged shares will not be affected by the exchange. In the event that the IRS does not agree to issue the requested ruling, (a) shareholders who become ineligible for a particular class of shares will not be permitted to remain in the class for which they are no longer eligible and will be required to exchange shares on a basis that the IRS may treat as taxable or to redeem their accounts, and (b) shareholders desiring to exchange into another class for which they are eligible without regard to their continued eligibility for the class of shares originally held may exchange shares on a basis that the IRS may treat as taxable.

15. After the expiration of a specified period, shares of one class ("Purchase Shares") may convert automatically to shares of another class with different features ("Target Shares"), subject to terms fully disclosed in the Fund's current prospectus. All conversions will be done at net asset value without the imposition of any sales load, fee, or other charge. For purposes of the conversion, all Purchase Shares in a shareholder's Fund account that were acquired through the reinvestment of dividends and other distributions paid in respect of such shares (and which had not yet converted) will be considered to be held in a separate subaccount. Each time any Purchase Shares in the shareholder's Fund account converted, an equal pro rata portion of shares then in the subaccount also will convert and will no longer be considered held in the subaccount. The portion will be determined by the ratio that the shareholder's converting Purchase Shares bears to the shareholder's total Purchase Shares subject to the conversion feature.

16. The Fund may create classes of shares in which investors would purchase shares at the next determined net asset value per share without the imposition of a sales load at the time of purchase, but subject to a CDSC upon redemption or repurchase of shares. Any CDSC would be imposed on the lesser of (a) The net asset value of the redeemed or repurchased shares at the time of purchase and (b) the net asset value of the redeemed or repurchased shares at the time of redemption or repurchase. The CDSC will apply only to those shares that are issued by the Fund after the SEC grants the requested exemptive relief and the proposed CDSC arrangement is set forth in the Fund's current prospectus.

17. No CDSC would be imposed with respect to (a) the portion of redemption or repurchase proceeds attributable to increases in the value of an account above the net cost of the investment due to increases in the net asset value per share, (b) shares acquired through reinvestment of income dividends or capital gain distributions, or (c) shares held for more than a certain number of years after the end of the calendar year in which the purchase order for such shares was accepted. In determining whether a CDSC was payable, it would be assumed that shares, or amounts representing shares, that were not subject to a CDSC were redeemed or repurchased first and that other shares or amounts were then redeemed or repurchased in the order purchased.

18. Under the proposed CDSC arrangement, the amount of a CDSC and the timing of its imposition could vary, as could the number and designation of classes of shares or certain shares within a class subject to a CDSC. Any change in the terms of the CDSC would not affect shares already issued unless the change resulted in terms more favorable to the holders of such shares.

19. An investor may reinvest shares of any series of the Fund in shares of the same class in the same or different series within 120 days of a redemption of CDSC shares. The reinvestment would be at net asset value and would be reinvested in CDSC shares of the chosen series. Any CDSC paid upon redemption would by reinstated by the Distributor to the investor's account and the reinvested CDSC shares would continue to be subject to the applicable CDSC. The holding period of the shares acquired through reinvestment, for purposes of computing the CDSC payable upon a subsequent redemption, will include the holding period of the redeemed shares.

20. Applicants request authority to waive or reduce any CDSC imposed by the Fund (a) On redemptions made within one year following a shareholder's death or disability, as defined in section 72(m)(7) of the Code; (b) on redemptions in connection with distributions from IRAs, 403(b) programs, or qualified retirement plans (i) that are on account of a participant's disability or death, (ii) that are part of a series of substantially equal payments made over the life expectancy of the participant or the joint life expectancy of the participant and his or her beneficiary, or (iii) that constitute a tax-free return of excess contributions

described in section 401(a)(8), 401(g), 403(b), 408(d) (4) or (5), 408(k)(6), or 501(c)(18)(D) of the Code; (c) on redemptions by a 403(b) program or a qualified retirement plan (i) after a participant's service with his or her employer terminates, (ii) which represent a participant's directed transfer under a defined contribution plan, or (iii) which are in the form of a loan to the participant as described in section 72 of the Code; (d) in connection with shares sold to (i) Trustees or officers of the Funds, directors or officers of the Adviser, the Distributor, any of their affiliates or selected broker-dealers, (ii) bona fide, full time employees or sales representatives of any of the foregoing, (iii) retired employees, officers, directors, or trustees of the foregoing, or (iv) any trust, pension, profit sharing or other benefit plan for persons described above; (e) in connection with shares sold to any state, county or city, or any instrumentality, department, authority or agency thereof, which is prohibited by applicable laws from paying a sales charge or commission in connection with the purchase of shares of any registered investment company; (f) pursuant to the Fund's right to liquidate or involuntarily redeem shares in a shareholder's account; (g) pursuant to a systematic withdrawal plan; and (h) in connection with the redemption of shares of any series that is combined with another fund, investment company, or personal holding company by virtue of a merger, acquisition, or other similar reorganization transaction.

21. If a Fund waives or reduces a CDSC, such waiver or reduction will be uniformly applied to all shares in the specified category. If the Trustees of the Fund which has been waiving or reducing a CDSC with respect to a class of a series pursuant to any of the items above determine not to waive or reduce such CDSC any longer, the disclosure in the prospectus of the Fund or series will be revised appropriately. CDSC shares of a series of the Fund purchased prior to the termination of such waiver or reduction would be entitled to a waiver or reduction of the CSDC as provided in the prospectus of the Fund or the series at the time of purchase of such shares.

Applicants' Legal Analysis

1. Applicants are requesting an order pursuant to section 6(c) of the Act to the extent the proposed issuance and sale of an unlimited number of classes representing interests in the Fund might be deemed (a) To result in a "senior security" within the meaning of section 18(g) and thus be prohibited by section 18(f)(1); or (b) to violate the equal voting provisions of section 18(i).

2. Applicants believe that the proposed unlimited number of classes structure will better enable the Fund to meet the competitive demands of today's financial services industry. Applicants assert that the proposed arrangement will permit the Fund to facilitate the distribution of shares of the Fund's securities in two direct marketplaces, institutional and retail, thus potentially affording both categories of shareholders the benefits associated with higher net asset levels. Moreover, if the Fund is able, through the proposed arrangement, to expand its shareholder base, its beneficial owners, irrespective of class, will benefit to the extent that the Fund's *pro rata* operating expenses per share are lower than they would be otherwise.

3. Applicants believe that the Multi-Class System does not involve the types of abuses that section 18 was designed to redress. Applicants state that the proposed arrangement does not involve borrowings and does not affect the Fund's existing assets or reserves. They further state that it will not increase the speculative character of the shares in a series of the Fund, because each class of shares in a series will participate in all of such series' appreciation, income, and expenses (with the exception of the proposed payments pursuant to a Plan and Class Expenses) on the basis of the net assets of such class. The Fund's capital structure under the proposed arrangement will not induce any group of shareholders to invest in risky securities to the detriment of any other group of shareholders because the investment risks of each series of the Fund will be borne equally by all of its shareholders. Similarly, the concerns that complex capital structures may facilitate control without equity or other investment and may make it difficult for investors to value the securities of the Fund are not present.

4. Applicants believe that the proposed allocation of Class Expenses and voting rights relating to the Plans is equitable and will not discriminate against any group of shareholders. Investors purchasing shares offered in connection with a Plan would bear the costs associated with such a Plan and would receive the benefits of retail mutual fund services and distribution arrangements, and the added benefits of economies of scale and portfolio management advantages that may result from combining retail and institutional investors' assets in a single, larger portfolio. Conversely, investors purchasing shares that would not be covered by a Plan would not be burdened with such expenses and would have no need for voting rights (if any) with respect to the Plans.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Each class of shares of a series of the Fund will represent interests in the same portfolio of investments and be identical in all respects, except as set forth below. The only differences among the classes of shares of a series will relate solely to one or more of the following: (a) the imposition of certain Class Expenses including (i) transfer agent fees (including the incremental cost of monitoring a CDSC applicable to a specific class of shares) identified by applicants as being attributable to a class of shares, (ii) printing and postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses, and proxy statements to current shareholders of a class, (iii) SEC and Blue Sky registration fees incurred by a class of shares, (iv) the expenses of administrative personnel and services as required to support the shareholders of a class, (v) litigation or other legal expenses relating to one class of shares, (vi) Trustees' fees or expenses incurred as a result of issues relating to one class of shares, and (vii) accounting expenses relating to one class of shares; (b) expenses assessed to a class pursuant to a Plan with respect to such class; (c) the voting rights related to any Play affecting a specific class of shares, except as set forth in condition 6 below; (d) exchange and/or conversion privileges; and (e) class designations. Any additional incremental expenses not specifically identified above which are subsequently identified and determined to be properly allocated to one class of shares shall not be so allocated unless and until approved by the SEC pursuant to an amended order.

2. The Trustees of the Fund, including a majority of the Trustees who are not interested persons of the Fund (the "Independent Trustees"), will approve the offering of the Multi-Class System. The minutes of the meetings of the Trustees regarding the deliberations of the Trustees with respect to the approvals necessary to implement the Multi-Class System will reflect in detail the reasons for the Trustees' determination that the proposed Multi-Class System is in the best interests of both the Fund and its shareholders.

3. The initial determination of the Class Expenses that will be allocated to a particular class and any subsequent changes thereto will be reviewed and

approved by a vote of the board of Trustees including a majority of the Independent Trustees. Any person authorized to direct the allocation and disposition of monies paid or payable by the Fund to meet Class Expenses shall provide to the board of Trustees, and the Trustees shall review, at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made.

4. Any Shareholder Services Plan will be adopted and operated in accordance with the procedures set forth in rule 12b–1 (b) through (f) as if the expenditures made thereunder were subject to rule 12b–1, except that shareholders may not necessarily enjoy the voting rights specified in rule 12b–1.

5. Any class of shares with a conversion feature ('Purchase Class") will convert into another class ("Target Class") of shares on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge. After conversion, the converted shares will be subject to an asset-based sales charge and/or service fee (as those terms are defined in article III, section 26 of the NASD's Rules of Fair Practice), if any, that in the aggregate are lower than the asset-based sales charge and service fee to which they were subject prior to the conversion.

6. If a portfolio implements any amendment to its Rule 12b–1 Plan (or, if presented to shareholders, adopts or implements any amendment of a Shareholder Services Plan) that would increase materially the amount that may be borne by the Target Class shares under the plan, existing Purchase Class shares will stop converting into the Target Class unless the Purchase Class shareholders, voting separately as a class, approve the proposal. the Trustees shall take such action as is necessary to ensure that existing Purchase Class shares are exchanged or converted into a new class of shares ("New Target Class"), identical in all material respects to the Target Class as it existed prior to implementation of the proposal, no later than the date such shares previously were scheduled to convert into the Target Class. If deemed advisable by the Trustees to implement the foregoing, such action may include the exchange of all existing Purchase Class shares for a new class of shares ("New Purchase Class"), identical to existing Purchase Class shares in all material respects except that the New Purchase Class will convert into the New Target Class. The New Target Class or New Purchase Class may be formed without further exemptive relief. Exchanges or conversion described in this condition shall be effected in a manner that the Trustees reasonably believe will not be subject to federal taxation. In accordance with condition 7, any additional cost associated with the creation, exchange, or conversion of the New Target Class or New Purchase Class shall be borne solely by the Adviser and the Distributor. Purchase Class shares sold after the implementation of the proposal may convert into Target Class shares subject to the higher maximum payment, provided that the material features of the Target Class plan and the relationship of such plan to the Purchase Class shares are disclosed in an effective registration statement.

7. On an ongoing basis, the Trustees of the Fund, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor the Fund for the existence of any material conflicts among the interests of the classes of shares. The Trustees, including a majority of the Independent Trustees, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The distributor and the investment adviser will be responsible for reporting any potential or existing conflicts to the Trustees. If a conflict arises, the distributor and the investment adviser, at their own cost, will remedy such conflict up to and including establishing a new registered management investment company.

8. The Distributor will adopt compliance standards as to when each class of shares may be sold to particular investors. Applicants will require all persons selling share of the Fund to agree to conform to such standards.

9. The Trustees will receive quarterly and annual statements concerning the amounts expended under any Plans and related agreements complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of a particular class will be used to justify any distribution or servicing fee charged to that class. Expenditures not related to the sale or servicing of a particular class will not be presented to the Trustees to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the Independent Trustees in the exercise of their fiduciary duties.

10. Dividends paid by the Fund with respect to each class of its shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be in the same amount, except that fees paid by a class under a Plan, Class Expenses, and any other incremental expenses subsequently identified as properly allocable to one class which are approved by the SEC pursuant to an amended order will be borne exclusively by that class.

11. The methodology and procedures for calculating the net asset value and dividends and distributions of the classes and the proper allocation of expenses among the classes have been reviewed by an expert (the "Expert") who has rendered a report to the applicants, which has been provided to the staff of the SEC, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Fund that the calculations and allocations are being made properly. The reports of the Expert will be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert with respect to such reports, following request by the Fund (which the Fund agrees to provide), will be available for inspection by the SEC staff upon the written request to the Fund for such work papers by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, Assistant Director, and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "Special Purpose" report on the "Design of a System" as defined and described in SAS No. 44 of the AICPA and the ongoing reports will be "reports on policies and procedures placed in operation and tests of operating effectiveness" as defined and described in SAS No. 70 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

12. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions of the classes of shares and the proper allocation of expenses among the classes and this representation has been concurred with by the Expert in the

initial report referred to in condition 11 above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition 11 above. Applicants will take immediate corrective action if this representation is not concurred in by the Expert or appropriate substitute Expert.

13. The Fund's prospectuses will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing shares may receive different compensation with respect to one particular class of shares over another.

14. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the Trustees with respect to the Multi-Class System will be set forth in guidelines which will be furnished to the Trustees.

15. Each series of the Fund will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of its shares in every prospectus, regardless of whether all classes of its shares are offered through each prospectus. Each series of the Fund will disclose the respective expenses and performance data applicable to all classes of shares in every shareholder report. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the series as a whole generally and not on a per class basis. Each series' per share data, however, will be prepared on a per class basis with respect to all classes of shares of such series. To the extent that any advertisement or sales literature describes the expenses or performance data applicable to any class of shares of a series, it will also disclose the respective expenses and/or performance data applicable to all classes of shares of such series. The information provided by applicants for publication in any newspaper or similar listing of a series' net asset value or public offering price will present each class of shares separately.

16. Applicants acknowledge that the grant of the exemptive order requested by the application will not imply SEC approval, authorization of or acquiescence in any particular level of payments that the Fund may make pursuant to its Rule 12b–1 Plan in reliance on the exemptive order.

17. Applicants will comply with the provisions of proposed rule 6c–10 under the Act, Investment Company Act Release No. 16619 (Nov. 2, 1988), as such rule is currently proposed and as it may be reproposed, adopted or amended.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–26597 Filed 10–27–93; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 19811; 811–1224]

Kleinwort Benson Investment Strategies; Application for Deregistration

October 22, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Kleinwort Benson Investment Strategies.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N–8F was filed on October 14, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 16, 1993, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, 200 Park Avenue, New York, New York 10166.

FOR FURTHER INFORMATION CONTACT: James J. Dwyer, Staff Attorney, at (202) 504–2920, or Robert A. Robertson, Branch Chief, at (202) 272–3030 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a Massachusetts business trust that originally was a Maryland corporation. Its sole portfolio is Kleinwort Benson International Equity Fund (the "Portfolio"). On April 7, 1993, applicant registered under the Act and filed a registration statement pursuant to section 8(b) of the Act. Applicant filed a registration statement on Form N–1 under the Securities Act of 1933 to register 500,000 shares of its capital stock. The filing was declared effective on July 23, 1980, and an initial public offering was commenced on September 9, 1980.

2. At a meeting held on March 30, 1993, applicant's board of trustees took all action necessary to authorize a plan of reorganization (the "Plan") by and among: Applicant, on behalf of the Portfolio; Centerland Fund, on behalf of a series thereof—the Centerland Kleinwort Benson International Equity Portfolio (the "Centerland Portfolio"); Kleinwort Benson International Investment Limited, applicant's investment adviser; and Boatmen's Trust Company. The Centerland Fund is a Massachusetts business trust registered under the Act.

3. In connection with the Plan, applicant filed with the SEC proxy materials dated June 1, 1993, and distributed the materials to its shareholders. On June 30, 1993, the Plan was approved by a majority of the outstanding shares of the Portfolio.

4. As of July 9, 1993, applicant had 4,424,347.893 shares outstanding, with a net asset value of $13.09 per share.

5. Pursuant to the Plan, on July 12, 1993, applicant transferred all assets and liabilities of the Portfolio to Centerland Fund on behalf of the Centerland Portfolio in exchange for an equal number of full and fractional shares of the Centerland Portfolio. The Plan provides that each share of the Centerland Portfolio would have a net asset value equal to the net asset value of each share of the Portfolio. Pursuant to the Plan, applicant distributed the Centerland Portfolio shares *pro rata* to applicant's shareholders.

6. Applicant incurred expenses of $199,922.35 in connection with the reorganization, comprised of $8,280 for proxy material printing expenses, $139,662.03 for legal fees and expenses, $46,000 for audit fees and expenses, $2,995 for the proxy tabulation agent, and $2,985.32 in mailing expenses. No brokerage commissions were paid in connection with the reorganization.

7. At the time of the application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to

any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

8. Applicant intends to file with the Massachusetts Secretary of State an instrument terminating and abolishing its existence as a trust.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-26596 Filed 10-27-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-25910]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

October 20, 1993.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 15, 1993, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

The Connecticut Light and Power Company et al. (70-8275)

Notice of Proposal To Amend Charter, or Alternatively, To Waive Charter Provision; Order Authorizing Solicitation of Proxies

The Connecticut Light and Power Company ("CL&P"), 107 Selden Street, Berlin, Connecticut 06037, and Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01090 (collectively, "Companies"), both electric public-utility subsidiary companies of Northeast Utilities ("NU"), a registered holding company, have filed a declaration under sections 6(a)(2), 7(e) and 12(e) of the Act and Rules 62 and 65 thereunder.

Currently, the terms of the Preferred Stock and Class A Preferred Stock (collectively, "Senior Stock") of the Companies provide, except with the consent of a majority in interest of the Senior Stock then outstanding (and, in the case of CL&P, so long as the holders of one-third of both classes of Senior Stock, voting as a single class, do not vote against such action), the amount of unsecured indebtedness of the Companies having maturities of less than ten years that may be issued or assumed shall not exceed 10% of the sum of the principal amount of all bonds, other secured indebtedness and the capital stock, premium and surplus of such company and that all unsecured indebtedness of either of the Companies issued or assumed shall not exceed 20% of such sum.

CL&P now proposes to amend its Certificate of Incorporation and WMECO proposes to amend its By-Laws and Articles of Organization (collectively, "Charters") to eliminate those portions of the Charters which prohibit the Companies from issuing or assuming unsecured indebtedness with maturities of less than ten years in excess of 10% of capitalization, but less than 20% of capitalization ("Proposal 1"). CL&P and WMECO require a vote of at least two-thirds of their outstanding Senior Stock and common stock, voting as separate classes to approve Proposal 1.

The Companies propose to submit to their holders of Senior Stock and sole common stockholder, NU, voting as holders of separate classes of capital stock, for consideration at a special meeting of stockholders to be held on December 15, 1993 ("Meeting"), Proposal 1. The Companies propose to solicit proxies from the holders of their Senior Stock and common stock in connection therewith.

In the event that Proposal 1 does not receive the requisite two-thirds votes, the Companies propose to seek authority from the holders of their Senior Stock to continue the current waiver of the 10% limit for an additional ten-year period ("Proposal 2"). Proposal 2 requires the affirmative vote of a majority of the Senior Stock outstanding. No action by the sole common stockholder, NU, is required with respect to Proposal 2.

The Companies propose to submit Proposal 2 to the holders of Senior Stock for consideration at the Meeting. The Companies propose to solicit proxies from the holders of their Senior Stock in connection therewith.

WMECO further proposes to submit a proposal to holders of its Senior Stock and the holder of its common stock, NU, and to solicit proxies in connection therewith, to amend its Charter to provide that meetings of its stockholders may be held either anywhere within the United States or in such other location as may then be permitted by law ("Proposal 3"). WMECO's Charter presently provides that stockholder meetings must be held within the Commonwealth of Massachusetts. A two-thirds majority of the outstanding Senior Stock and common stock, voting as separate classes, is necessary to approve Proposal 3.

The Companies have filed their proxy solicitation materials and request that their declaration with respect to the solicitation of proxies be permitted to become effective forthwith as provided in Rule 62(d).

It appearing to the Commission that CL&P's and WMECO's declaration regarding the proposed solicitation of proxies should be permitted to become effective forthwith, pursuant to Rule 62:

It is ordered, That the declaration regarding the proposed solicitation of proxies, be, and it hereby is, permitted to become effective forthwith, under Rule 62, and subject to the terms and conditions as prescribed in Rule 24 under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-26517 Filed 10-27-93; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2687]

Commonwealth of Massachusetts; Declaration of Disaster Loan Area

Middlesex County and the contiguous counties of Essex, Norfolk, Suffolk, and Worchester, in the Commonwealth of Massachusetts and the contiguous county of Hillsborough in the State of New Hampshire, constitute a disaster area as a result of damages caused by a fire on Douglas Street in the City of Cambridge which occurred on October 2, 1993. Applications for loans for

physical damage as a result of this disaster may be filed until the close of business on December 20, 1993 and for economic injury until the close of business on July 20, 1994 at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Floor, Niagara Falls, NY 14303 or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.625
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The numbers assigned to this disaster for physical damage are 268705 for Massachusetts and 268805 for New Hampshire. For economic injury the numbers are 807300 for Massachusetts and 807400 for New Hampshire.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Date: October 20, 1993.

Erskine B. Bowles,

Administrator.

[FR Doc. 93-26541 Filed 10-27-93; 8:45 am]

BILLING CODE 8025-01-M

Louisville District Advisory Council; Public Meeting

The U.S. Small Business Administration Louisville District Advisory Council will hold a public meeting at 9:30 a.m. on Wednesday, November 10, 1993, at The Galt House East, Governors Room, 4th Street at River, Louisville, Kentucky, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. William Federhofer, District Director, U.S. Small Business Administration, room 188, 600 Dr. Martin Luther King, Jr. Place, Louisville, Kentucky 40202, (502) 582-5971.

Dated: October 22, 1993.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93-26542 Filed 10-27-93; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Bureau of Administration

[Public Notice 1894]

Privacy Act of 1974; Altered System of Records

Notice is hereby given that the Department of State proposes to alter an existing system of records, STATE-54, pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a(r)), and the Office of Management and Budget Circular No. A-130, Appendix I. The Department's report was filed with the Office of Management and Budget on October 20, 1993.

It is proposed that the current system "U.S./Iran Claims Records" be renamed "Records of the Office of the Assistant Legal Adviser for International Claims and Investment Disputes." Also proposed are revisions and/or additions to the security classification, system location, categories of individuals and records covered by the system, routine uses, retrievability and safeguards, retention and disposal, system manager and address, notification procedure, record access and amendment procedures, record source categories, and applicable exemptions. These changes to the existing system description are proposed in order to reflect more accurately the Office of the Assistant Legal Adviser for International Claims and Investment Disputes' record-keeping system, the enlargement of the scope of the mandate, and a reorganization of its activities and operations.

Any persons interested in commenting on the altered system of records may do so by submitting comments in writing to Margaret P. Grafeld, Chief, Privacy, Plans, and Appeals Division, Office of Freedom of Information, Privacy and Classification Review, room 1239, Department of State, 2201 C Street, NW., Washington, DC 20520-1239. This system of records will be effective 40 days from the date of publication [December 7, 1993], unless we receive comments which will result in a contrary determination.

The altered system, the "Records of the Assistant Legal Adviser for International Claims and Investment Disputes, STATE-54," will read as set forth below.

Dated: October 20, 1993.

Patrick F. Kennedy,

Assistant Secretary for the Bureau of Administration.

State-54

SYSTEM NAME:

Records of the Office of the Assistant Legal Adviser for International Claims and Investment Disputes.

SECURITY CLASSIFICATION:

Classified.

SYSTEM LOCATION:

Department of State, 2201 C Street, NW., Washington, DC 20520 and 2100 K Street, NW., Washington, DC 20037.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. nationals or residents, including businesses, with claims against foreign governments. Foreign nationals with claims against the United States. Claims of U.S. citizens pursuant to 22 U.S.C. 1971, *et seq.* ("Fisherman's Protective Act"); 22 U.S.C. 2669(f) ("The Act of August 1956"); 28 U.S.C. 1346, 2671-80 ("The Federal Tort Claim Act"); 50 U.S.C. 1701 note.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. sec. 1971, *et seq.* ("Fisherman's Protective Act"); 22 U.S.C. 2669(f) ("The Act of August 1956"); 28 U.S.C. 1346, 2671-80 ("The Federal Tort Claim Act"); 50 U.S.C. 1701 note; 5 U.S.C. 301.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to claims described above, including the names and addresses of parties to the claims, the category and nature of the claims, their procedural history, correspondence, memoranda, and data which will enable U.S. Government attorneys to identify and process common legal issues in the claims.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The Office of the Assistant Secretary for International Claims and Investment Disputes in the Office of the Legal Adviser will use this record system to organize information concerning the claims described above and to facilitate processing such claims. Certain information may also be made available to other government agencies involved in the processing of the claim, principally the Departments of Justice, Treasury, Commerce, Defense and the Office of the United States Trade

Representative, as well as relevant international tribunals and foreign governments. The information may also be released to other government agencies having statutory or other lawful authority to maintain such information. Also see "Routine Uses" paragraph of the Prefatory Statement published in the **Federal Register** (42 FR 49699, September 27, 1977).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic media; hard copy.

RETRIEVABILITY:

By claim number or individual claimant name; by nature or category of claim; by other descriptive features of the claim such as the country involved or applicable statute.

SAFEGUARDS:

All employees of the Department of State have undergone a thorough background security investigation. Access to the Department of State and its annexes is controlled by security guards, and admission is limited to those individuals possessing a valid identification card and individuals under proper escort. All records containing personal information are maintained in secure file cabinets or in restricted areas, access to which is limited to authorized personnel. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular *ad hoc* monitoring of computer usage.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, at which time they will be retired or destroyed according to published record schedules of the Department of State and as approved by the National Archives and Records Administration. More specified information may be obtained by writing to the Director, Office of Freedom of Information, Privacy, and Classification Review, room 1239, Department of State, 2201 C Street, NW., Washington, DC. 20520–1239.

SYSTEM MANAGER AND ADDRESS:

Assistant Legal Adviser for International Claims and Investment Disputes, Office of the Legal Adviser, room 402, SA–9, Department of State, 2100 K Street, NW., Washington, DC. 20037.

NOTIFICATION PROCEDURE:

Individuals who have reason to believe the Office of the Assistant Legal Adviser for International Claims and Investment Disputes might have records pertaining to them should write to the Director, Office of Freedom of Information, Privacy and Classification Review, room 1239, Department of State, 2201 C Street, NW., Washington, DC. 20520–1239. The individual must specify that he/she wishes the records of the Office of the Assistant Legal Adviser for International Claims and Investment Disputes to be checked. At a minimum, the individual must include: Name, date and place of birth; current mailing address and zip code; and signature.

RECORD ACCESS AND AMENDMENT PROCEDURES:

Individuals who wish to gain access to or amend records pertaining to themselves should write to the Director, Office of Freedom of Information, Privacy and Classification Review (address above).

RECORD SOURCE CATEGORIES:

These records contain information obtained directly from the individual who is the subject of these records or his/her legal representative, the U.S.-Iran Claims Tribunal, the United Nations Compensation Commission, other international tribunals, and the Office of the Legal Adviser.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Portions of certain documents contained within this system of records are exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f). See 22 CFR 171.32.

[FR Doc. 93–26554 Filed 10–27–93; 8:45 am]
BILLING CODE 4710–24–M

TENNESSEE VALLEY AUTHORITY

Privacy Act of 1974: Proposed New Routine Use

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Proposed new routine use for TVA–31, "OIG Investigative Records—TVA."

SUMMARY: This publication gives notice, as required by the Privacy Act, of TVA's intention to establish a new routine use for the system of records entitled TVA–31, "OIG Investigative Records—TVA." Details of the proposed new routine use are described below. The full text of TVA–31 appears at 55 FR 34871–18 (August 24, 1990).

DATES: Comments must be received by November 29, 1993.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Mark R. Winter, TVA, 1101 Market St., Chattanooga, TN 37402–2801. As a convenience to commenters, TVA will accept public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (615) 751–2902. Receipt of FAX transmittals will not be acknowledged.

FOR FURTHER INFORMATION CONTACT: Mark R. Winter, (615) 751–2523.

TVA–31

SYSTEM NAME:

OIG Investigative Records—TVA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individuals and entities who are or have been the subjects of investigations by the Office of the Inspector General (OIG) or who provide information in connection with such investigations, including but not limited to: Employees, former employees, current or former contractors and subcontractors and their employees, consultants, and other individuals and entities which have or are seeking to obtain business or other relations with TVA.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Executive Order 10450; Executive Order 11222; Hatch Act, 5 U.S.C. 7324–7327; 28 U.S.C. 535; Proposed Plan for the Creation, Structure, Authority, and Function of the Office of Inspector General, Tennessee Valley Authority, approved by the TVA Board of Directors on October 18, 1985; TVA Code XIII INSPECTOR GENERAL, approved by the TVA Board of Directors on February 19, 1987; and Inspector General Act Amendments of 1988, Pub. L. 100–504, 102 Stat. 2515.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

To other Federal Offices of Inspector General for the purpose of conducting peer reviews of TVA OIG investigations.

John J. O'Donnell,

Vice President, Facilities Services.

[FR Doc. 93–26563 Filed 10–27–93; 8:45 am]
BILLING CODE 8120–08–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended October 15, 1993

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 49188
Date filed: October 13, 1993
Parties: Members of the International Air Transport Association
Subject: TC23 Reso/P 0608 dated October 1, 1993 Europe-Japan/Korea Expedited Resos r-1-071ee r-2-085z r-3-015v
Proposed Effective Date: Expedited November 1, 1993

Docket Number: 49190
Date filed: October 13, 1993
Parties: Members of the International Air Transport Association
Subject: TC23 Reso/P 0612 dated October 5, Resos r-1-002s r-2-015v
Proposed Effective Date: Expedited December 1, 1993

Docket Number: 49191
Date filed: October 13, 1993
Parties: Members of the International Air Transport Association
Subject: TC23 Reso/P 0609 dated October 1, 1993 Europe-Japan/Korea Expedited Resos r-1-085z r-2-015v r-3-003b r-4-250j TC23 Reso/P 0610 dated October 1, 1993 Europe-Japan/ Korea Expedited Resos r-5-091LL
Proposed Effective Date: Expedited January 1/March 31, 1994

Docket Number: 49192
Date filed: October 13, 1993
Parties: Members of the International Air Transport Association
Subject: TC12 Reso/P 1522 dated September 17, 1993 Canada-Europe Resos r-1- to r-29 Tables—TC12 Fares 0413 dated October 8, 1993 TC12 Reso/P 1523 dated September 17, 1993 Mexico-Europe Resos r-30 to r-53
Proposed Effective Date: January 1/April 1, 1994

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 93-26589 Filed 10-27-93; 8:45 am]
BILLING CODE 4910-62-P

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended October 15, 1993

The following applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 49185
Date filed: October 12, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 9, 1993
Description: Application of Phoenix Leasing Corporation, pursuant to section 401(d)(1) of the Act and subpart Q of the Regulations, to transfer and assume the certificate of public convenience and necessity authorizing interstate and overseas scheduled and charter air transportation held by Mid Pacific Air Corporation.

Docket Number: 49187
Date filed: October 13, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 10, 1993
Description: Application of Aerovias De Poniente, S.A. DE C.V., pursuant to section 402 of the Act and subpart Q of the Regulations applies for a foreign air carrier permit to engage in foreign scheduled air transportation for passengers, cargo and/or mail between the following city pairs: Hermosillo, Sonora-Tucson, Arizona; and Ciudad Juarez, Chihuahua-Albuquerque, New Mexico.

Docket Number: 49189
Date filed: October 13, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 10, 1993
Description: Application of 2734141 Canada Inc., pursuant to section 402 of the Act and subpart Q of the Regulations, applies for an initial foreign air carrier permit to operate transborder charters to the U.S.A., carrying on business under the firm name and style of Knighthawk Air Express, using fixed wing aircraft as certified as capable of carrying no more than 60 passengers and having a maximum payload of no more than 18,000 pounds.

Docket Number: 49194
Date filed: October 14, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 12, 1993
Description: Application of Polskie Linie Lotnicze Lot S.A. pursuant to section 402 of the Act and subpart Q of the Regulations for the transfer to it of the foreign air carrier permit, previously issued to its predecessor, "Polskie Linie Lotnicze, LOT," a state-owned enterprise, or the issuance of a new foreign air carrier permit to it. This application is necessitated by the transformation of the state-owned enterprise into a joint-stock company by action of the Republic of Poland.

Docket Number: 49199
Date filed: October 15, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 13, 1993
Description: Application of Newwest Airlines, Inc., pursuant to section 401(d)(1) of the Act and subpart Q of the Regulations requests authority to engage in interstate and overseas scheduled air transportation of persons, property, and mail: Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, and any other point in any State of the United States, and or the District of Columbia, or any territory or possession of the United States.

Docket Number: 47807
Date filed: October 12, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 9, 1993
Description: Request of Sun Express Group, Inc. and Conquest Sun Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, request that the Department approve the transfer of the Certificate of Public Convenience and Necessity currently held by Sun to CSA, a newly organized corporation jointly owned by Conquest Airlines Corp. and Sun.

Docket Number: 45723
Date filed: October 14, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 12, 1993
Description: Application of Transportes Aereos Ejecutivos, S.A. de C.V., pursuant to section 402 of the Act and subpart Q of the Regulations, applies for an amendment of its Foreign Air Carrier Permit to engage in the scheduled air transportation of persons, property and mail on

Mexico-U.S. scheduled combination routes.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 93-26590 Filed 10-27-93; 8:45 am]

BILLING CODE 4910-62-P

Federal Aviation Administration

Proposed Advisory Circular for Certification of Airport Lighting Equipment

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability, proposed advisory circular; request for comments.

SUMMARY: The Federal Aviation Administration (FAA) announces (1) the availability of proposed Advisory Circular (AC) 150/5345-53, Airport Lighting Equipment Certification Program, which provides information on and a means for third party certification of airport lighting equipment, and (2) the proposed cancellation of AC 150/5345-1U, Approved Airport Equipment.

DATES: Comments must be received by December 27, 1993.

ADDRESSES: Comments should be sent to the Federal Aviation Administration, Engineering and Specifications Division (AAS-200), 800 Independence Ave., SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Richard Worch at (202) 267-8744.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the proposed Advisory Circular (AC) may be obtained by contacting the person named under **FOR FURTHER INFORMATION CONTACT.** Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments as they may desire. Commenters should identify AC 150/5345-53 and submit comments, in duplicate, to the address specified above. All communications received on or before the closing date for comments will be considered by the Engineering and Specifications Division before issuing the final AC.

Background

(1) Advisory Circular 150/5345-53

Notification of the ETL Aviation Lighting Equipment Certification Program was published in the **Federal Register** on November 8, 1989 (Vol. 54, No. 215), and became effective on January 1, 1990. On August 21, 1990, the FAA published in the **Federal Register**, a notice of availability of advisory circular (AC) 150/5345-1V, Approved List of Airport Equipment which described the ETL Aviation Lighting Equipment Certification Program. The FAA proposed to cancel AC 150/5345-1U, Approved Airport Equipment, dated 2/20/89, after issuance of AC 150/5345-1V. However, some manufacturers expressed concerns regarding its cancellation and a final decision is pending review of comments received.

After full consideration of the comments received the FAA has developed a proposed advisory circular 150/5345-53, Airport Lighting Equipment Certification Program. This Advisory circular would establish the Airport Lighting Equipment Certification Program. The program would be implemented by third party certification bodies which meet FAA criteria and is intended solely for equipment funded for installation under the FAA airport grant program.

The purpose of the program is to assist airport sponsors in discharging their duty to determine that airport lighting equipment meets the applicable FAA standards for safety, performance, quality, and standardization.

The program will allow for more than one organization to participate as a certification body and will provide for FAA oversight and acceptance of certification bodies. The AC provides information and requirements on how an organization can get FAA acceptance as a third party certification body and how manufacturers may get equipment qualified under the program. It also includes a list of products that have been certified under the program. Third party certification bodies that meet the acceptance criteria will be listed in the advisory circular.

(2) Advisory Circular 150/5345-U

Under the Federal airport grant program the FAA administered the Airport Lighting Approval Program. Under this program the FAA inspected equipment to confirm that it met FAA standards and to ensure quality control. The program was discontinued as of December 31, 1989 as a result of declining FAA resources. The FAA no longer had the personnel or funding to continue administering the program.

Consequently, on January 1, 1990 a new program was established which named a commercial testing laboratory under the oversight of an Industry Technical Advisory Committee (ITAC) as the program certification body. Since the inception of the new program the FAA realized that there were additional commercial laboratories which may want to participate as certification bodies. Therefore, the Airport Lighting Equipment Certification Program is proposed, as detailed under Item (1) above.

Since the FAA no longer conducts the approval program, and is proposing a new program, advisory circular 150/5345-1U is proposed to be cancelled one year from the effective date of AC 150/5345-53. Manufacturers who desire to participate would have one year from the effective date to qualify equipment under the Airport Lighting Equipment Certification Program.

(3) Comments Received on Advisory Circular 150/5345-1V, Approved List of Airport Equipment

On August 21, 1990, the FAA published in the **Federal Register** (Vol. 55, No. 162), a notice of availability of advisory circular (AC) 150/5345-1V, Approved List of Airport Equipment which described the ETL Aviation Lighting Equipment Certification Program. Publication of AC 150/5345-1V would have canceled AC 150/5345-1U, Approved Airport Equipment, dated 2/20/89. Comments regarding this action were requested.

Eleven commentors supported the need to continue the ETL airport lighting equipment certification program and recommended publication of AC 150/5345-1V. They were supportive of the program and urged that the AC be published as soon as possible. They further recommended that AC 150/5345-1U be cancelled.

Two commentors opposed the actions. One commentor stated that the program was different from the plan presented to industry, in that ETL was accepted as the sole certifier as opposed to representations that products were to be certified by either ETL or UL. The commentor also indicated that the regulatory process was reversed by adopting the change and then asking for comments from industry.

The other opposing commentor objected to the administrative procedure used in the changeover. The commentor indicated that publication of advisory circular 150/5345-1V cancelled AC 150/5345-1U and requested comments, instead of requesting comments on AC 150/5345-1V prior to publication. In addition, there was no provision for the use of competitive regional testing facilities which would keep costs low.

The FAA agrees with the opposing comments. Accordingly, the FAA is proposing in this Notice to open the program to third party certifiers other than ETL. The FAA is requesting comments on the new certification

program before issuance of final AC 150/5345-53.

Raymond T. Uhl,

Acting Director, Office of Airport Safety and Standards, AAS-1.

[FR Doc. 93-26591 Filed 10-27-93; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Morgan, Camden and Laclede Counties, MO

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Morgan, Camden and Laclede Counties, Missouri.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Anderson, District Engineer, Federal Highway Administration, Post Office Box 1787, Jefferson City, MO 65102, Telephone (314) 636-7104; Mr. H.E. Sfreddo, Division Engineer, Design, Missouri Highway and Transportation Department, Post Office Box 270, Jefferson City, MO 65102, Telephone (314) 751-2876; Mr. James R. Toft, District Engineer, Missouri Highway and Transportation Department, District 5, Post Office Box 718, Jefferson City, MO 65102, Telephone (314) 751-3322.

SUPPLEMENTARY INFORMATION: (1) The proposed highway project will be a new fully access controlled right-of-way facility on new location along Route 5 extending from a point approximately two miles north of Gravois Mills, Missouri, southerly a distance of forty miles to a point approximately one mile south of the Camden/Laclede County line. This project will reduce traffic congestion and increase safety along Route 5 in the Lake of the Ozarks area.

(2) The proposed facility will provide a 24-foot pavement in each direction separated by a depressed median. Several build alternatives will be considered within a corridor ranging from two to six miles wide along with alternative interchange location and type studies. Other alternatives being considered are the no-action and the transportation system management (TSM) alternatives.

(3) Project information may be obtained by contacting the MHTD District 5 office at the address and telephone number listed above. A location public hearing is tentatively scheduled to be held in May 1994. Other public information meetings will be held during the planning of the proposed facility.

Issued on: October 21, 1993.

Hugh B. Jones,

Assistant Division Administrator, Jefferson City, Missouri.

[FR Doc. 93-26553 Filed 10-27-93; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

October 21, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0142

Form Numbers: ATF F 2734 (5100.25)

Type of Review: Extension

Title: Specific Export Bond—Distilled Spirits or Wine

Description: ATF F 2734 (5100.25) is used to ensure the payment of taxes on shipments of wine and distilled spirits. The form describes the taxable articles, the surety company, the specific conditions of the bond coverage and the persons that are accountable for tax payment

Respondents: Businesses or other for-profit, small businesses or organizations

Estimated Number of Respondents: 1

Estimated Burden Hours Per Respondent: 1 hour

Frequency of Response: On occasion

Estimated Total Reporting Burden: 1 hour

Clearance Officer: Robert N. Hogarth (202) 927-8930, Bureau of Alcohol, Tobacco and Firearms, room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93-26527 Filed 10-27-93; 8:45 am]

BILLING CODE 4810-31-P

Public Information Collection Requirements Submitted to OMB for Review

October 21, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0284

Form Number: IRS Form 5309

Type of Review: Extension

Title: Application for Determination of Employee Stock Ownership Plan

Description: Form 5309 is used in conjunction with Form 5300 when applying for a determination letter as to a deferred compensation plan's qualification status under section 409 or 4975(e)(7) of the Internal Revenue Code. The information is used to determine whether the plan qualifies

Respondents: Businesses or other for-profit

Estimated Number of Respondents/ Recordkeepers: 462

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—5 hrs., 30 min.

Learning about the law or the form—1 hr., 23 min.

Preparing and sending the form to the IRS—1 hr., 32 min.

Frequency of Response: On occasion

Estimated Total Reporting/ Recordkeeping Burden: 3,895 hours

Clearance Officer: Garrick Shear (202) 622-3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive

Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93–26528 Filed 10–27–93; 8:45 am]

BILLING CODE 4830–01–P

Fiscal Service

Treasury Current Value of Funds Rate

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice of rate for use in Federal debt collection and discount evaluation.

SUMMARY: Pursuant to Section 11 of the Debt Collection Act of 1982 (31 U.S.C. 3717), the Secretary of the Treasury is responsible for computing and publishing the percentage rate to be used in assessing interest charges for outstanding debts on claims owed the Government. Treasury's Cash Management Regulations (I TFM 6–8000) also prescribe use of this rate by agencies as a comparison point in evaluating the cost-effectiveness of a cash discount. Notice is hereby given that the applicable rate is 3 percent for calendar year 1994.

DATES: The rate will be in effect for the period beginning on January 1, 1994 and ending on December 31, 1994.

FOR FURTHER INFORMATION CONTACT: Inquiries should be directed to the Program Compliance & Evaluation Division, Financial Management Service, Department of the Treasury, 401 14th Street, SW., Washington, DC 20227 (Telephone: (202) 874–6630).

SUPPLEMENTARY INFORMATION: The rate reflects the current value of funds to the Treasury for use in connection with Federal Cash Management systems and is based on investment rates set for purposes of Public Law 95–147, 91 Stat. 1227. Computed each year by averaging investment rates for the 12-month period ending every September 30 for applicability effective January 1, the rate is subject to quarterly revisions if the annual average, on the moving basis, changes by 2 per centum. The rate in effect for calendar year 1994 reflects the average investment rates for the 12-month period ended September 30, 1993.

Dated: October 25, 1993.

William F. Patriarca,

Acting Assistant Commissioner, Federal Finance.

[FR Doc. 93–26536 Filed 10–27–93; 8:45 am]

BILLING CODE 4810–35–M

Surety Companies Acceptable on Federal Bonds Liquidation; Millers National Insurance Co.

Millers National Insurance Company, an Illinois Corporation, formerly held a Certificate of Authority as an acceptable surety on Federal bonds and was last listed as such at 50 FR 27123, July 1, 1985. The Company's authority was terminated by the Department of the Treasury effective November 1, 1985. The termination notice was published in the **Federal Register** of November 18, 1985, page 47496.

On May 11, 1993, upon a petition by the Insurance Director of the State of Illinois, the Circuit Court of Cook County, Illinois, issued an Order of Liquidation with respect to Millers National Insurance Company. James W. Schacht, the Special Deputy Receiver, representing the Director of Insurance of the State of Illinois, was appointed as Receiver of the company. All persons having claims against Millers National Insurance Company must file their claims by May 11, 1994, or be barred from sharing in the distribution of assets.

All claims must be filed in writing and shall set forth the amount of the claim, the facts upon which the claim is based, any priorities asserted and any other pertinent facts to substantiate the claim. It is recommended that Federal Agency claimants asserting priority status under 31 U.S.C. 3713 who have not yet filed their claim, do so in writing, to: Department of Justice, Civil Division, Commercial Litigation Branch, P.O. Box 875, Ben Franklin Station, Washington, DC 20044–0875; Attn: Ms. Sandra P. Spooner, Deputy Director.

The above office will be consolidating any and all claims against Millers National Insurance Company, on behalf of the United States Government. Any questions concerning filing of claims may be directed to Ms. Spooner at (202/FTS) 724–7194.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, Washington, DC 20227, Telephone (202/FTS) 874–6905.

Dated: October 6, 1993.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 93–26535 Filed 10–27–93; 8:45 am]

BILLING CODE 4810–35–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 207
Thursday, October 28, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, November 2, 1993 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, November 4, 1993 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, DC. (Ninth Floor.)

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Future Meetings.
Correction and Approval of Minutes.
Report of the National Performance Review on Reinventing Government—Creating a Government That Works Better and Costs Less.
Letter from the American Society of Association Executives Requesting Withdrawal of the "Member" Rules.
FY 1994 Management Plan.
Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone: (202) 219–4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 93–26722 Filed 10–26–93; 3:01 pm]

BILLING CODE 6715–01–M

federal register

Thursday
October 28, 1993

Part II

Department of Transportation

Federal Highway Administration
Federal Transit Administration

23 CFR Part 450
49 CFR Part 613
Statewide Planning; Metropolitan Planning; Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 450

[FHWA Docket Nos. 93–4, 93–5]

RIN 2125–AC95, 2125–AC94

Federal Transit Administration

49 CFR Part 613

RIN 2132–AA44, 2132–AA48

Statewide Planning; Metropolitan Planning

AGENCIES: Federal Highway Administration (FHWA), Federal Transit Administration (FTA), DOT.

ACTION: Final rules.

SUMMARY: The FHWA and the FTA are jointly issuing revised planning regulations governing the development of transportation plans and programs for urbanized areas. Additionally, the FHWA and the FTA are issuing joint regulations governing the development of statewide plans and programs. By implementing provisions of the Intermodal Surface Transportation Efficiency Act of 1991 these regulations will ensure the adequacy of statewide and metropolitan transportation planning and programming and the eligibility of metropolitan areas and States for Federal highway and transit funds.

EFFECTIVE DATE: November 29, 1993.

FOR FURTHER INFORMATION CONTACT: For FHWA: Mr. Sheldon Edner, Planning Operations Branch (HEP–21), (202) 366–4066 (metropolitan planning), Mr. Dee Spann, Planning Programs Branch (HEP–12), (202) 366–4086 (on statewide planning), or Mr. Reid Alsop, FHWA Office of the Chief Counsel (HCC–31), (202) 366–1371. For the FTA: Mr. Paul Verchinski, Resource Management Division (TGM–21), (202) 366–6385 or Mr. Scott Biehl, FTA Office of the Chief Counsel (TCC–40), (202) 366–4063. Both agencies are located at 400 Seventh Street SW., Washington, DC 20590. Office hours for FHWA are from 7:45 a.m. to 4:15 p.m., e.t., and for the FTA are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: Sections 1024, 1025, and 3012 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102–240, 105 Stat. 1914, amended title 23, U.S.C., and the Federal Transit Act by revising sections 134 and 135 of title 23 and section 8 of the Federal Transit Act (49 U.S.C. app. 1607) which require a continuing, comprehensive, and coordinated transportation planning process in metropolitan areas and States. The FHWA and the FTA are revising their current metropolitan planning regulations and issuing new State planning regulations to implement these changes.

On March 2, 1993, the FHWA and the FTA jointly published notices of proposed rulemaking (NPRM) in the **Federal Register** (58 FR 12064 and 12084). A supplemental notice announcing a series of four public meetings and soliciting public input regarding eight specific questions was published in the **Federal Register** on March 24, 1993 (58 FR 15816). The discussion below addresses comments received in response to both notices, the public meetings and other communications provided to the FHWA and the FTA for both the metropolitan and statewide planning regulations.

General

Publication of Combined Regulations

The FHWA and the FTA, in response to written comments requesting clarification of the relationship between proposed rules for metropolitan and statewide transportation planning, have decided to combine the regulations in a single publication which incorporates the revisions to both proposed rules. A single set of definitions is being issued to be designated as subpart A. The statewide planning regulation is issued as subpart B and the metropolitan planning regulation as subpart C. The FTA revises 49 CFR part 613 to reference the provisions of 23 CFR part 450 for the FTA's programs. Throughout this rule any references to 23 CFR part 450, as a result of the FTA's cross-reference, are applicable to 49 CFR part 613.

Development of Regulations

The final rules were developed by an interagency task force of the FHWA and the FTA with input from the Federal Aviation Administration, Federal Railroad Administration, Maritime Administration, Office of the Secretary of the U.S. DOT, and the U.S. Environmental Protection Agency (EPA). The FHWA and the FTA considered the comments received at the public meetings and to the Docket for both the statewide and metropolitan planning regulations in developing the revisions to the NPRM for the final rule.

Relationship to Interim Guidance Issued April 6, 1992 (Metropolitan Planning) and May 28, 1992 (Statewide)

On April 6, 1992, and May 28, 1992, the FHWA and the FTA jointly issued interim guidance to aid States and MPOs in complying with the new legislative requirements. The guidance was published on April 23, 1992, at 57 FR 14943, and on January 4, 1993, at 58 FR 169. This interim guidance is superseded by this regulation.

Applicability

The provisions of these rules apply to all metropolitan planning organizations serving urbanized areas with populations of at least 50,000, State transportation agencies, and publicly-operated transit agencies as appropriate. The rules provide for the development of transportation plans and transportation improvement programs (TIPs) and for the selection of projects to be funded under title 23, U.S.C., and the Federal Transit Act in metropolitan areas and States.

Linkage to Management System Requirements

The transportation management systems required under 23 U.S.C. 303 are addressed in a separate rulemaking. However, these management systems are a significant factor in the metropolitan and statewide planning processes and provide valuable information and strategies supporting the development of transportation plans and programs. This preamble and that of the management systems rule address the relationship of the planning process to the management systems and their linkage to plan and TIP development. To the extent possible, the definitions of terms utilized in the metropolitan and statewide planning rules are utilized in the management system rule.

Results of Public Meetings

Four public meetings were held: San Francisco (March 31–April 1, 1993), Atlanta (April 7–8, 1993), Philadelphia (April 14–15, 1993), and Kansas City (April 20–21, 1993). Average attendance at the four meetings was approximately 50 individuals with an average of 15 presentations at each. The meetings provided opportunities for comment on the proposed rules for statewide and metropolitan planning and management systems. Transcripts of the testimony presented have been placed in the docket for each rule and considered by the FHWA and the FTA in preparing this final rule.

Written Comments Received to the Docket

Approximately 170 comments regarding metropolitan planning and 100 regarding statewide planning were received to the respective dockets from interested parties. The relative distribution of commenters is reflected in the following table:

Type of commenter	Approximate percentage statewide	Approximate percentage metropolitan
Federal Agency	8	4
State DOT/Highway	35	18
State Transit, Safety, Environment, etc.	5	5
MPO, COG, Regional Planning	15	29
City/County	10	16
Local/Regional Transit	10	8
Railroad Companies	2	1
Consultant	2	2
Private Citizens	5	3
National and Regional Associations/Advocacy Groups	8	13

The comments received were diverse and, in some cases, opposing. The great majority of commenters indicated general support for the proposed rule and also offered individual specific suggestions for revisions. Some comments suggested major revisions. The responses to the suggestions received are discussed below. General comments concerning the rules are addressed initially, followed by specific responses to comments raised on individual sections of the statewide and metropolitan regulations.

General Relationship Between Planning and Management Systems

Comment: Several commenters expressed the view that the relationship between the planning and management systems rules was not clear in terms of the operational relationship between the planning process and the management systems.

Response: The following discussion lays out a general relationship between the planning process and management systems at the conceptual level. Further guidance and technical assistance from the FHWA and the FTA will provide more detailed specification of the technical operating relationship between these two processes.

The overall objective of the ISTEA is the improved performance of the statewide and metropolitan transportation systems through preservation, operations, and capacity enhancements. The management systems provide information concerning both the condition and performance of the existing and future transportation system in terms of the six specific areas they address. Three of the systems (bridge, pavement and public transportation) tend to focus on the management of system assets. The other three focus more on the performance aspects of the system. All six, however, must produce strategies for ensuring that the performance of the current and future systems is optimized, in terms of each individual system, the overall transportation system and the performance measures established for the metropolitan area.

Where these systems may suggest strategies for improving the transportation system that may be inconsistent with other strategies or are less than optimal from a longer term perspective, the planning process must reconcile these inconsistencies. Where there are insufficient resources available to fund all improvements identified through the management systems and planning process, the decision on which proposed improvement is of highest priority for inclusion in the financially constrained plan and/or program is made through the planning process. The planning process focuses on integrating the operation and preservation of the existing system with its long term development and performance. Hence, the plan and its development process must address broadranging alternative financial strategies for meeting needs. These alternatives may include financing different mixes of projects. The planning process also may consider major modifications to the existing transportation system facilities ranging from abandonment of facilities that no longer contribute to the optimal carrying capacity of the overall system to major additions needed to support new development. The management systems develop information and strategies to improve the performance of the existing and future facilities and provide input to the planning process for consideration at the system level.

The planning process provides a mechanism for linking the existing human, natural and built environment with future development patterns. In meeting the demands of the current and future system users, the process must address not only the results of the management systems but the other factors specified by the ISTEA. For the metropolitan planning process, this means consideration of fourteen other planning factors, twenty-two for statewide planning. While the most recognized products of the process are the transportation plan and TIP (both statewide and metropolitan), the continuing generation and analysis of information through the planning process is also a vital product. The planning process as envisioned in ISTEA is a dynamic activity which effectively integrates current operational and preservation considerations with longer term mobility, environmental and development concerns.

Another contributing factor to this change in planning is the intermodal nature of the transportation planning process. The promulgation of these rules is an indication of the broader integration of the transit and highway modes. However, consideration of other modes and modal planning processes also is now essential. For example, comments received from aviation interests indicated that the aviation planning process occurs on a different regional scale from that of surface transportation. While this may be technically correct, the consequences of the airport planning process in terms of surface transportation system changes and impacts on system performance must be addressed in a "real time" and integrated fashion. Consequently, while the planning process must address the production of a plan, it also must provide an ongoing context for metropolitan and statewide decisionmaking that supports integration of these multiple dimensions of the transportation decision process.

The planning processes provide a basis and framework for the development of the metropolitan and statewide Transportation Improvement Program (TIPs). TIPs must be consistent with plans. They also provide a vehicle for implementing the strategies developed through the management systems and validated through the planning processes for inclusion in the plan. Projects included in the approved metropolitan and statewide TIP can be advanced for implementation. Once implemented, these projects constitute the improvements which contribute to system performance enhancements.

Improvements in performance bring us back to the beginning of this iterative set of relationships between the planning process and the management systems. The following chart graphically indicates the relationship described in the preceding paragraphs.

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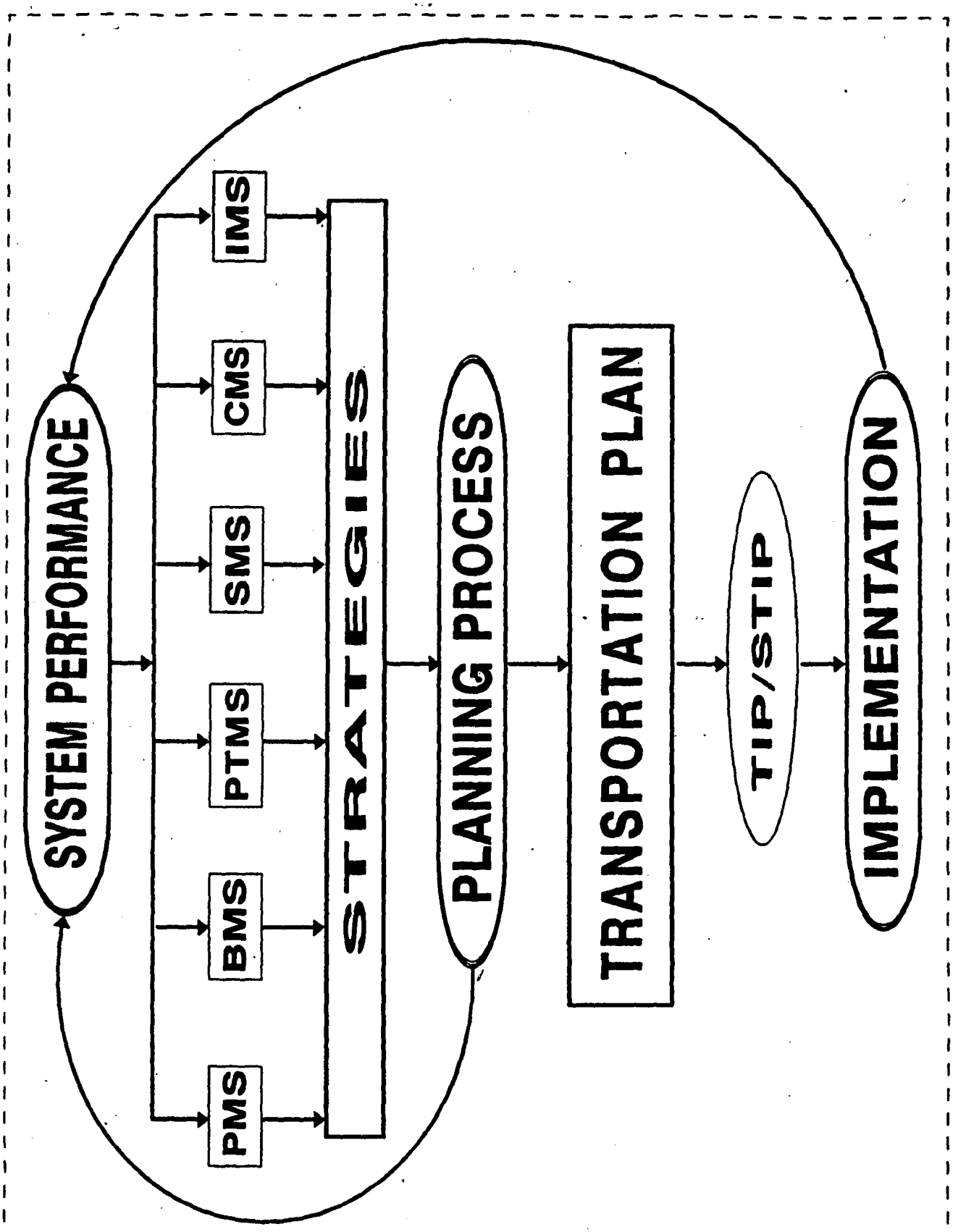

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To further clarify the relationship between management systems and the planning process, common definitions have been adopted and included in the planning and management system regulations.

Burdensome Requirements

Comment: Many commenters observed that the proposed regulation was too burdensome and restrictive in terms of requirements to be met. On the other hand, many commenters recommended additional requirements to be met by States and MPOs.

Response: As noted in the preamble to the proposed rules, their development was guided by the principle of reducing and minimizing regulatory burdens wherever possible. In response to the comments received on this matter, we have carefully considered both the need to reduce the regulatory requirements and the appropriateness of additional requirements. Changes are discussed in the section-by-section analysis below.

Questions Raised in Supplemental Public Notice

The supplemental notice published on March 24, 1993, raised eight questions to which the FHWA and the FTA were soliciting comment. While these individual questions relate to specific sections within the metropolitan and statewide planning rules, the FHWA and the FTA have chosen to highlight the general response here and deal with specific revisions in the section-by-section analysis.

Question 1: Approach to Certification

The FHWA and the FTA solicited comments regarding the desirability of more fully specifying the criteria which must be met for certification of the metropolitan transportation planning processes and the consequences of failing to comply with them.

Comments: Approximately thirty commenters addressed this question. About two-thirds of these respondents supported more detailed criteria. The remainder supported the proposed rule or no minimum criteria. Suggested specific requirements included: delineating requirements for States, requiring involvement of transit operators, detailed articulation of procedures to consider the fifteen mandatory planning factors, and a public involvement procedure. One commenter suggested specifying how compliance with certification criteria will be determined.

Response: The proposed regulation was based on a discretionary certification process to accommodate the diversity of transportation management areas. Detailed criteria were not proposed; but nonregulatory guidance would be issued at a later date. After considering the comments received, the FHWA and the FTA believe that the discretion provided in the proposed rule is still the appropriate approach to conducting the certification process. The specific suggestions for certification criteria will be further reexamined for inclusion in the guidance to be issued at a later time.

The comments received regarding the extent to which planning processes must meet the planning criteria suggested that full compliance with all fifteen planning factors should not be required. Hence, no change was made in the final rule.

Question 2: Reasonably Available Funding Sources

Comments were solicited as to what funding sources could be reasonably identified as available and whether only those sources currently in place could be utilized.

Comment: Approximately 40 comments to the metropolitan docket and 30 to the statewide planning docket were received on this issue. Comments in general were divided. Some preferred more flexibility for transportation plans than TIPs, others wanted the same standards applied. One comment suggested the utilization of two forms of plans, constrained and visionary. One comment wanted to limit funding to specifically defined sources and not permit the utilization of sources that required new legislation or voter approval. Sentiment was expressed by some for programming based on contingency considerations. Two comments raised the need for State forecasts of future revenue streams to support statewide and metropolitan estimates of available funding.

Response: Recognizing (1) the need to allow States the flexibility to manage obligation authority, (2) the legislative directive to encourage use of innovative funding sources, (3) the need to allow other project implementors to manage their own revenue sources in the most cost-efficient fashion, and (4) the congressional directive to permit utilization of Federal authorization levels as a basis for forecasting available Federal revenues, the FHWA and the FTA believe that some flexibility beyond available funding is necessary for effective planning. At the same time, the Congress indicated a need for a more constrained approach to programming than has historically existed and that plans should have a financing strategy associated with them. Comments received on the plan's fiscal constraints tended to favor the flexibility provided in the proposed rule. Hence, only minor modification has been made to the financial plan requirement. However, as discussed in the comments on §§ 450.324 and 450.216 below, the requirement for identifying funding sources in TIPs has been modified, in part to achieve consistency with the requirements of the U.S. EPA's conformity rule.

Question 3: Public Participation

Comments were solicited regarding the desirability of more detailed public participation requirements, including Federally specified minimum requirements.

Comment: There were fifty-five (40 metropolitan and 15 statewide) comments received on this issue. About a third of these comments indicated that minimum criteria were warranted. Twenty comments took the position that the specification provided by the proposed rule was too prescriptive. Among the specific recommendations offered were: requiring the establishment of a citizen advisory committee, establishing a test of sufficiency, requiring minimum time periods for review, defining significant public comments, specifying access to records, and MPO requirements to provide publicly available written accounts of all comments received.

Response: Consideration of comments received led to rewriting the participation requirements extensively. A balance was struck between the imposition of detailed time periods and frequency of meetings and more generalized criteria that would set thresholds of expected performance. The final regulatory language draws attention to the intended outcome of the public involvement process: informed and involved citizens who have access to public records and the decisionmaking process. The detailed changes are discussed in the comments regarding §§ 450.316(b) and 450.212. The thrust of the revisions is to make more explicit the areas of concern to the FHWA and the FTA while providing State and local officials the flexibility to develop processes that work within their diverse environments.

Question 4: Gubernatorial Delegation

The FHWA and the FTA asked for comments regarding the desirability of requiring the Governor of a State to personally exercise the authority vested in their office by the ISTEA or permitting delegation of this authority. If delegation is permitted, a companion question asked whether a public

interagency coordination process should be required.

Comment: About thirty comments were received on this topic. Seven argued for prohibiting delegation. Twenty comments supported the ability of the Governor to delegate. Two comments supported the creation of a coordinating process, one opposed.

Response: The FHWA and the FTA proposed to allow delegation. The ISTEA is silent on the matter of delegation. Therefore, the language of the proposed rule has been modified by deleting the words "or designee" to more accurately reflect the statutory wording.

Question 5: Interim Congestion Management System

Comments were requested on the desirability of the proposed phase-in approach for implementation of the Congestion Management System (CMS) or, alternatively, whether projects significantly increasing SOV (single occupant vehicle) capacity in Transportation Management Areas that are nonattainment for ozone and/or carbon monoxide should be deferred until full implementation of the CMS.

Comment: Approximately twenty-five comments were received on this subject. About thirteen supported the proposed rule, two opposed it in general terms. Four comments addressed the requirements of the Clean Air Act Amendments (CAAA) and the need to ban significant SOV projects to achieve the goals of this legislation. Approximately six comments suggested prohibiting increases in capacity during the phase-in period.

Response: The principal concern of those supporting the proposed wording, and of the FHWA and the FTA in crafting it was to permit programming of such SOV projects in a timely manner where it is shown that the need for them cannot be met through demand and operations management strategies. Full implementation of the CMS will take several years and the ISTEA specifically required a phase-in of the CMS requirement in Transportation Management Areas. Hence, the interim strategy which relies on the basic premise of the legislative concept (limiting the need for capacity increases through alternative demand management measures, including operating strategies) was devised. In the judgment of the FHWA and the FTA, this strategy continues to be appropriate and, therefore, is adopted in the final rule.

Question 6: State/MPO Linkage

Comments were requested on the extent to which the cooperative linkage between MPOs and State transportation agencies as envisioned by the proposed rule would be workable given the diverse nature of MPOs and States.

Comment: Twelve comments were received on this subject. About half of these comments described the linkage as workable, the remainder addressed specific revisions. Among the specific points raised were: establishing consistency between State and MPO plans and TIPs, recognizing the importance of county-level transportation agencies, clarification of interface between State and MPO planning, establishment of roles to provide equitable representation for all interested parties, and identification of a lead agency.

Response: The generally positive tenor of these comments has led the FHWA and the FTA to retain the original structural linkage proposed in the NPRM. Some minor modifications have been made to the wording describing the MPO and State linkage in specific sections of the rule. These are discussed below in relation to § 450.332.

Question 7: Simplified Planning Procedures

Input was solicited regarding the desirability of additional regulatory detail for simplified planning procedures.

Comment: About ten responses to this question were received. Over half supported the utilization of simplified procedures. These comments also appeared to support implementation through guidance rather than regulation. Two comments indicated that there was no need for such procedures and one questioned the basis for allowing simplified procedures.

Response: Since the provision for simplified planning procedures is explicitly provided for in the ISTEA and the question evoked minimal response, the FHWA and the FTA have chosen to retain the wording proposed as the final rule language.

Question 8: Cooperative Approach to Structure of MPOs

The FHWA and the FTA requested comments on the appropriateness of continuing to rely on the Governor and local officials to define the form and procedure of MPOs.

Comment: Approximately 20 comments were received on this issue. Just under half of these comments indicated that no further guidance or direction was necessary. About a fifth of the comments indicated that the regulations should identify and specify voting membership on the MPO policy board. Individual suggestions were received on the following: Balancing central city and suburban concerns, proportional representation and voting, representation of major modes of transportation, and county level representation. Finally, a national study of the structure of MPOs was recommended.

Response: Over twenty years of reliance on gubernatorial and local specification of MPO structure and membership has produced a working process of MPO governance tailored to State and local needs. While individual instances of MPO instability have prompted suggestions for modification of this approach, at this time there is no clear, compelling reason for changing this historic approach. Therefore, the FHWA and the FTA have decided to retain the approach specified in the proposed rule, particularly since the ISTEA specifically states that existing MPOs remain in effect and sets up specific procedures to be used to revoke existing designations and designate new MPOs.

Section-by-Section Analysis

Subpart A—Definitions

Approximately thirty commenters offered one or more comments concerning definitions included in the statewide planning NPRM. Approximately forty additional commenters offered one or more comments concerning definitions included in the metropolitan planning NPRM. The FHWA and the FTA have combined the definitions in both NPRMs and added a few new definitions so that now a single set of definitions are applicable to both planning rules. They are also applicable as appropriate to the management systems rule. There are additional definitions in the management systems rule that are applicable to that rule only.

The definitions of *consultation* and *coordination* received very few comments. After consideration of the comments, the FHWA and the FTA have decided to retain these definitions as proposed in the NPRM with minor revision.

The definition of *cooperation* received more comment (approximately 15) than most of the other definitions. After consideration of the comments and further deliberation regarding the "concurrence" feature of the NPRM definition and the concern that it went further than was intended by the Congress in providing powers to various

entities, the FHWA and the FTA have decided to use a very general definition of *cooperation* in the final rule. This definition envisions a process in which the participating parties will work together toward common goals/objectives, e.g., compatible plans and programs, implementation of projects that meet State as well as local transportation needs, consideration of environmental impacts in the planning and programming processes, etc. Evaluation of the level of cooperation will be a major factor in FHWA/FTA's planning finding made in conjunction with STIP approval and certification of the planning process in TMAs.

Relatively few comments (about half a dozen) were received on the definition of *Governor*. However, the FHWA and the FTA have deleted "or designee" from the definition to more accurately reflect the wording of the ISTEA.

The definition of *maintenance area* has undergone minor revision to clarify statutory references concerning designation.

A significant number of comments (about two dozen) were received on the definition of *major metropolitan transportation investment*. The FHWA and the FTA have revised it considerably to make it clearer. The major revisions deal with examples offered, references to substantial cost and capacity, and clarifying discussion of the process for determining other improvements that might be designated as major metropolitan transportation investments.

The definition of *management system* is taken directly from the management system rule.

No change is made to the definition of *metropolitan planning area*.

About 10 comments were received on the definition of *metropolitan planning organization* (MPO) with most seeking clarification. The MPO is now defined as the forum for cooperative transportation decisionmaking for an urbanized area. The definition clarifies that MPOs designated prior to this rule remain valid unless a redesignation takes place in accordance with subpart C. The FHWA and the FTA emphasize the cooperative aspect of this definition and will evaluate this as a significant part of the certification for TMAs and the planning finding on TIPs and STIPs.

A new definition is provided for *metropolitan transportation plan* that emphasizes the official nature of the plan for the metropolitan area and that it is a product of the planning process.

There is no change to the definition for *nonattainment area*.

The definition of *regionally significant* received approximately 10 comments. After considerable deliberation and consideration of comments and to maintain consistency with the U.S. EPA conformity regulation, the FHWA and the FTA have modified the definition. The FHWA and the FTA have decided to substitute the term *regionally significant project* rather than *regionally significant* and define a regionally significant project as any project (except for minor projects that may be grouped in the TIP) on a regional facility that would normally be included in the regional modeling for the transportation network. As a minimum, principal arterial highways and transit facilities/services that offer a significant alternative to regional highway travel should be part of this network.

Although relatively few comments were received on the definition of *State*, it is revised to drop the phrase "when an action by the State is required, then the *State* means the State transportation agency." The ISTEA is silent on an extended definition of State even though it seems to differentiate between State and gubernatorial responsibilities. This leads to the conclusion that State responsibilities could be prescribed in the rule as the responsibility of a particular State agency, e.g., the State transportation agency. However, the possibility exists that the Governor may delegate the responsibility to other State agencies. Therefore, the FHWA and the FTA have decided to depend on the historic practice. Specific reference to State transportation agency has been deleted and the definition in 23 U.S.C. 101(a) of *State* is now utilized for part 450.

There is no change in the definition of *state implementation plan* (SIP).

The definition of *statewide transportation improvement program* (STIP) is revised to emphasize the statewide and intermodal nature of the program. It also emphasizes the fact that the STIP is a product of the planning process and must be consistent with the Statewide plan.

The definition of *statewide transportation plan* is simplified.

The definition of *transportation improvement program* is simplified.

The definition of *transportation management area* (TMA) is modified to clarify the area to which the TMA requirements applies. It recognizes that the TMA requirements are applicable to the entire metropolitan planning area served by an MPO(s) within which the TMA is located.

Subpart B—Statewide Planning

General

Approximately 100 commenters submitted comments to docket FHWA/FTA 93–5 in response to the NPRM. The items that surfaced as most important are discussed in the appropriate sections below or in the section elsewhere in this preamble that discusses elements that transcend both planning rules and the management systems rule. These issues are: (1) Definition of cooperation, (2) public involvement, (3) partial STIPs, (4) policy versus corridor-level plan, (5) incorporating metropolitan plans into State plans, (6) minimum factors, and (7) STIP content.

Section 450.200 Purpose

No comments were received on this section, therefore the FHWA and the FTA have not made any revisions.

Section 450.202 Applicability

No comments were received on this section, therefore the FHWA and the FTA have not made any revisions.

Section 450.204 Definitions

The FHWA and the FTA have decided to address definitions in a separate section of Part 450. This section is modified by dropping all definitions and referring to 23 CFR Part 450, subpart A. Further discussion of the FHWA and the FTA disposition of comments received and changes made to definitions is discussed elsewhere in this preamble under subpart A.

Section 450.206 General Requirements

This section sets forth several components for the statewide transportation planning process in each State. Since no substantive Federal requirements for statewide transportation planning existed prior to the ISTEA, the FHWA and the FTA have established a general framework for this process. Comments related to this section were limited but reflected the general opinion that paragraph (a)(6) was unclear in its intent. We have therefore eliminated the paragraph and modified paragraph (a)(4) slightly to stress the requirement for the development of a statewide transportation plan that is based on a range of transportation options that consider all modes of transportation and the connections between modes. This will require appropriate consideration of multimodal alternatives in keeping with the statutory requirements of ISTEA, while leaving the level of effort to the discretion of State and local officials.

Section 450.208 Factors

The FHWA and the FTA proposed to allow flexibility to the States in deciding how the factors should be addressed, rather than establish minimum standards or requirements by regulation for each factor. The FTA and the FHWA proposed to issue additional guidance to assist the States in providing substantive consideration of the specific factors. The overwhelming majority of commenters supported the flexible approach as proposed. Several commenters stressed, however, that there should be greater assurance that the factors will be considered seriously in the planning process. The FHWA and the FTA agree and have added language in the rule indicating that the Department expects explicit consideration and analysis of the factors. Further, the Department expects such consideration to be reflected in the products of the planning process, and conforming changes have been made to those sections of the rule. The rule continues to recognize that the extent of such analyses should be determined by the scale and complexity of conditions in the State. It also clarifies that duplicate analyses are not required where overlap may exist between two or more factors.

Several commenters took issue with repeating the duplicative statutory factors in subparagraphs (a)(1) and (a)(15) regarding management systems. We have combined them as a factor in paragraph (a)(1).

A number of commenters suggested that their particular interest be included in the list of factors that must be considered. We have added one additional factor because it is specifically mentioned in the ISTEA, i.e., strategies for identifying and implementing transportation enhancements. Examples were added to clarify the coverage of existing factors. These examples include facilities of all modes as part of system management and investment strategies; commuter rail as part of transit services; strategies for preventing loss of rights-of-way as part of corridor preservation; movement of goods as part of long-range needs of the State transportation system; and emphasis on housing, employment, and development goals.

Section 450.210 Coordination

Fewer than ten commenters explicitly supported inclusion of this section or requested additional areas for which provision of coordination should be required.

Fewer than ten commenters favored elimination of all or part of this section. The comments from these agencies either emphasized the fact that the ISTEA does not specifically contain an overall coordination requirement or indicated that this section, or part of this section, would result in an administrative burden.

A few commenters desired minimum standards for coordination and other changes to substantially increase the minimum allowable coordination.

Finally, a few commenters indicated either confusion regarding the extent of the responsibility of the State for providing coordination, concern over the administrative burden that States would place on local agencies to provide coordination or concern that the coordination requirement would result in overemphasis within the planning process of issues that should more properly be emphasized elsewhere, for example, the project development process.

As a result of consideration of these comments and further analysis, the FHWA and the FTA have decided to retain this section, essentially as it was in the NPRM with a few changes. One change eliminates any responsibility, within this subpart, on the part of the State to provide for coordination of organizational entities while retaining the requirement to provide coordination of activities. The language in the NPRM had required provision of coordination of organizational entities in certain circumstances. Given that the coordination of planning activities carried out by the different organizations is both more critical and potentially easier than coordination of the organizations themselves, the FHWA and the FTA believe this change will more positively focus coordination efforts.

In light of the considerable emphasis in the ISTEA on the concept of intermodalism, the FHWA and the FTA expect that planning for all transportation modes will be folded into the Statewide transportation planning process. This includes state rail plans, airport system plans, port system plans, etc. This intermodal emphasis is evident not only in § 450.210 on coordination but also in § 450.214 on the statewide transportation plan and § 450.206 on the general requirements of the statewide transportation planning process.

The FHWA and the FTA have added a requirement for coordination between transportation planning carried out by the State and transportation planning carried out by operators of major intermodal terminals. One of the commenters suggested this change. Given the importance such terminals may potentially have in the transportation system, the FHWA and the FTA agreed with the suggestion and adopted it.

A final change is that the degree of coordination is to be more closely based on State or sub-area conditions. One of the commenters suggested this change. Because the language of the NPRM implied that the degree of coordination could be inconsistent with the level of planning in some cases, the FHWA and the FTA agreed with the suggestion and adopted it.

Section 450.212 Public Involvement

The general section of this preamble describes the approach and philosophy to public involvement taken by FHWA and FTA which is that the planning process is open to all and should provide the opportunity to those desiring to participate to do so. It is up to the participating parties to define a process which provides the opportunity for participation for the interested parties, which include private sector as well as public sector providers of both freight and passenger transportation. It also discusses the response to comments on public involvement.

There are public involvement requirements for Statewide Transportation Planning (subpart B) that are different from those for Metropolitan Transportation Planning (subpart C):

(1) Clarifying language has been added stating that the FHWA and the FTA will accept as meeting the statewide planning public involvement requirements, public involvement activities carried out in a metropolitan area (in accordance with subpart C) concerning an issue of statewide concern, if the State and MPO agree that they satisfy the statewide public involvement requirements.

(2) The draft plan must be published with reasonable notification of its availability or otherwise made readily available for public review and comment. The final plan must be published with reasonable notification of its availability or otherwise made readily available for public information. In metropolitan areas, public meetings consistent with the requirements of § 450.316 and § 450.322 shall be held as appropriate.

(3) The draft STIP must be published with reasonable notification of its availability or otherwise made readily available for public review and comment. The final STIP, if it differs significantly from the draft, must be published with reasonable notification of its availability or otherwise made readily available. In metropolitan areas, public meetings consistent with the

requirements of § 450.316 and § 450.322 shall be held as appropriate.

As with metropolitan public involvement procedures described in subpart C, a 45 day time period is now required for public review and comment before public involvement procedures are adopted.

Section 450.214 Plan

The FTA and the FHWA have changed the format of the section on the statewide transportation plan to distinguish the requirements applying to the form and content of the plan from the requirements applying to the State's development of the plan. This is not to reduce the flexibility on form and content generally endorsed by the commenters, but to show more clearly the procedural steps required in plan development.

In response to several comments questioning the ambiguity regarding freight movement and trucks, the FHWA and the FTA are including commercial motor vehicle facilities in the references to rail, waterway, and aviation facilities.

Wording is added to emphasize that analysis of factors is expected as factors are considered in statewide transportation plan development.

Of the dozen or so agencies that commented on the need for statewide plans to include refinement to the corridor level, only one insisted that it should be a requirement. Almost all felt that policy-type plans would be a sufficient basis for later programs of transportation projects. In the interest of supporting the States' flexibility to determine how best to depict their long-range transportation goals and objectives, the FHWA and the FTA have not changed the proposed rule allowing for a policy level plan. Nevertheless, the FHWA and the FTA will continue to support the inclusion of corridor level information as good practice in the development of statewide plans.

The commenters generally support the approach of the NPRM that there must be a cooperative effort and consistency between statewide and metropolitan plans. However, there were several who felt that the FHWA and the FTA could not, or should not, require any coordination; on the other hand, there were several who felt that outright incorporation of metropolitan plans should be required. The FHWA and the FTA recognize that the law does not mandate joint State-local action on Statewide plans, but strongly encourage coordination, cooperation and consistency. Therefore, the FHWA and the FTA have not changed the approach of the NPRM.

Comment on cooperation with Indian tribal governments was virtually absent from the docket. One commenter was concerned that total agreement between parties when requiring cooperation with Indian tribal governments and the Secretary of the Interior not be required. This has been clarified by the discussion of the definition of cooperation above.

Several parties commented on the issue of a 20-year planning horizon. Most were satisfied with the 20-year requirement of the NPRM, however a few thought it was too long and none recommended a longer period. The FHWA and the FTA have retained the 20-year requirement as a minimum.

The FHWA and the FTA considered prescribing an update cycle for the statewide transportation plan, but due to several factors including limited experience with the statewide planning process and the apparent need for flexibility among States, the FHWA and the FTA chose not to prescribe a specific cycle for update. However, the FHWA and the FTA expect a continuing evaluation of the plan and periodic update as appropriate for each State based upon a variety of issues including changes in metropolitan plans, statewide growth and development, changes in funding, etc.

Section 450.216 STIP

Several comments were received concerning the need for clarification of the intent of the FHWA and the FTA concerning approval of a partial STIP. Revisions have been made to make it clear that approval of partial STIPs is acceptable primarily when difficulties are encountered in cooperatively developing the STIP portion for a particular metropolitan area or for a Federal lands agency.

Revised language has been developed clearly indicating that metropolitan TIPs must be included in the STIP without modification, either directly or by reference. The rule clearly states that TIP priorities, including preference to TCMs (transportation control measures) will dictate STIP priorities for each individual metropolitan area. The FHWA and the FTA encourage the States and other participating agencies, e.g., MPOs, Federal lands agencies, etc. to broaden communication so that information on their projects can flow as early as possible in the STIP development process.

The FTA and the FHWA believe that as part of an adequate coordination effort among agencies with transportation project funding responsibilities, the State should notify each agency proposing projects for inclusion in the STIP when the projects have been included in the STIP. In addition, all title 23 and Federal Transit Act fund recipients are expected to share information on project status, development, progress reports, fund expenditures, etc., with planning process participants as projects in the STIP are implemented. MPO agreements should contain a provision for project status information. Language to this effect has been incorporated accordingly.

A considerable number of comments were received concerning the aspects of the rule dealing with financial constraint of the STIP. Comments ranged from the desire for latitude allowing considerable overprogramming to the desire for no overprogramming with the STIP restricted only to projects to be funded with current funds, i.e., funds that the funding agency has "in the bank" with no conditions or other restrictions attached. The FHWA and the FTA believe that some latitude regarding this issue is the practical approach in order to allow for some "slippage" of projects; therefore, the Federal funding levels for which the STIP should be developed are basically the authorizations (which traditionally exceed the obligation limitations) for each year for which the STIP is being prepared. Of course all federally funded projects must have appropriate match; the source (by jurisdiction) of these funds must be identified. If these match funds are not currently available, the lack of available match must be identified in the STIP for each such project.

In summary, the rule now requires that the STIP contain financial information showing projects to be implemented using current funds that the implementing agency has "in the bank" and those projects to be implemented using proposed funds that have some degree of promise or condition attached to them which must be satisfied before they can be utilized. Where proposed funds are included, strategies for ensuring their availability must be identified. In nonattainment and maintenance areas, the first two years of the STIP/TIP may only contain projects for which funding is available or committed. The preamble section-by-section analysis for subpart C provides further explanation of this approach. The need to show in the STIP appropriate funding levels to adequately operate and maintain the system as a whole has not changed from the NPRM. Maintenance and operations funding estimates will likely be more general than estimates for an individual project. A summary sheet to permit ready

comparison of STIP financial information by year is encouraged.

The FHWA and the FTA have modified the wording from the NPRM concerning certain projects to be contained in the STIP:

1. Regionally significant projects requiring an action by the FHWA or the FTA must be in the STIP whether or not title 23 or Federal Transit Act funds are used. It is the intent of the FHWA and the FTA that projects such as "demonstration" projects must now be in the STIP and TIP before project authorization or grant approval is given. By restricting the requirement in the STIP to only regionally significant projects requiring an action by the FHWA or the FTA, projects such as utility adjustments and air rights which are not in a TIP do not have to be in the STIP.

2. The FHWA and the FTA also now ask for inclusion in the STIP for information purposes those regionally significant surface transportation projects proposed to be funded with Federal funds other than FHWA or FTA administered funds, e.g., major intercity rail investments.

3. The FHWA and the FTA have also changed the emphasis on the inclusion for information purposes of regionally significant projects to be funded with non-federal funds from "may" to "should." This leaves some flexibility while still emphasizing the need to include these types of projects in the STIP for planning, coordination, and public disclosure purposes.

Several commenters suggested the STIP cover more than a three year period; others suggested it cover less. The rule allows more than three years with the additional years considered as informational. Three years is consistent with the metropolitan rule. States might consider developing a three year STIP and possibly a 7–10 year short range plan, which would be in addition to the required 20 year plus statewide plan. A STIP covering less than three years would not be a realistic and acceptable programming effort for public disclosure purposes.

There was apparently some confusion generated by the NPRM concerning the relationship between the STIP and project selection. A new paragraph has been added to clarify that the non-metropolitan projects in the first year of the STIP are to be considered selected for implementation, and that they must have been selected for the STIP through a process that meets the project selection requirements for each category of funds.

The paragraph on STIP amendment has been slightly modified emphasizing that amendment procedures should be agreed to by cooperating parties and must be consistent with the procedures for STIP development, public involvement and project selection. One procedure to expedite project selection could be to have "contingency projects" in the second year of the STIP that have been properly selected and that can be moved forward without further project selection action if unavoidable circumstances delay advancement of a specific project.

The FHWA and the FTA encourage the participating parties to view the STIP as a management tool for monitoring progress in implementing the plan. In this regard, the STIP could (1) identify criteria and process for prioritizing implementation of plan elements (including intermodal trade-offs) within the STIP and any changes in priorities from previous STIPs and (2) list major projects from the previous STIP that were implemented and, for those that were not, identify any significant delays in the planned implementation of major projects. It then can serve as a mechanism that focuses and determines the projects, establishes the relationship among projects and notifies the public of project status. Of special importance is sharing of project and TIP/STIP implementation information among title 23 and Federal Transit Act fund recipients as projects in the STIP are implemented. Programming is no longer just assembling a list of projects that may be able to proceed; it is now a process for comprehensively managing project advancement in relation to other transportation and transportation related activities that impact transportation system performance.

Section 450.218 Funding

Comments were very limited in reference to this section. There appeared to be some misinterpretation, however, that this section addressed the use of capital funding available under the Federal Transit Act and title 23, U.S.C. This section simply specifies those funds made available under title 23, U.S.C., and the Federal Transit Act to carry out planning activities necessary to accomplish the requirements of this regulation.

Section 450.220 Approvals

Comments were mixed on this section. Some commenters stated that approvals of partial STIPs should be allowed only if certain specific milestones had been achieved, such as, (a) a plan which addresses how each one of the 23 factors specified in § 450.208 have been incorporated in the process; (b) a plan for public involvement, with minimum standards identified, has been developed; (c) specific procedures for determining nonattainment and maintenance area TIP conformity with the State Implementation Plan (SIP) for air quality have been adopted; and (d) specific agreement has been reached between the State and the MPOs on how Federal funds will be allocated statewide. Other commenters favored the flexibility in the proposed rule which would allow approval of the STIP based on review of the partial STIP by the FHWA and the FTA with appropriate approval action being left to the discretion of the FHWA and the FTA jointly.

The FHWA and the FTA agree that a good faith effort in addressing each of the factors described in the regulations must be made in the statewide planning process, that public involvement must become an integral and ongoing part of each statewide and metropolitan planning effort, and that funding must be equitably shared to meet the most pressing transportation needs. These factors will be closely monitored by the FHWA and the FTA staff during their review of STIPs.

Further, the FHWA and the FTA believe that it would not be appropriate to delay an entire STIP, with the attendant delays in capital funding statewide, because the State (for non-metropolitan areas), a contributing metropolitan area or Federal lands agency has not completed its portion of the STIP. The FHWA and the FTA have therefore added a fourth possible approval action which allows the joint approval of a partial STIP covering only a portion of the State in special circumstances. The FHWA and the FTA have retained the other proposed partial approval mechanisms as specified in the NPRM.

Other commenters were concerned that the joint FHWA/FTA approval process set up in the NPRM would result in excessive delays of the STIPs. The FHWA and the FTA believe that they must maintain mutual approval authority on the STIPs to act as responsible stewards to their clients. The FHWA and the FTA are working in close concert to ensure that the time required for joint FHWA/FTA approval is minimized. The FHWA and the FTA encourage the parties participating in the planning process, e.g., State, MPO, transit operator, etc., to likewise develop a streamlined process for TIP/STIP development and processing to minimize the time required for appropriate approval.

Before Federal approval action can be taken, the FHWA and the FTA must make the findings stipulated in §§ 450.220 and 450.330. Federal approval constitutes a determination that the State has complied with the requirements of 23 U.S.C. 134 and 135, and section 8(q) of the Federal Transit Act, as a condition of eligibility of the projects contained in the STIP for Federal-aid funding. It does not relate to the content of the plan or STIP, which is the prerogative of the State.

In response to questions about the STIP approval period, language has been added to § 450.220 to make it clear that the approval period for STIPs cannot exceed two years. Except for special extenuating circumstances, projects in STIPs that have not been updated/amended and approved within a 2 year period may not be advanced. Where the State demonstrates to the FHWA and the FTA that they had a reasonable schedule for meeting the 2 year deadline and due to extenuating circumstances will be unable to maintain this schedule, the FHWA and the FTA will consider a request to extend the approval period for all or a portion of the old STIP for some limited period of time, as determined jointly by the FHWA and the FTA, subject to the State providing evidence that it is expediting completion of a new STIP. If the request involves projects within metropolitan planning areas, and the delay was due to the TIP development process, the MPO must also provide justification for an extension as well as providing concurrence in the State's request to advance projects from the old STIP. Additionally, in nonattainment and maintenance areas, the conformity determination on the TIP must still be valid under the U.S. EPA's conformity regulations and the period of extension cannot exceed the life of the conformity determination.

The FTA and the FHWA have clarified paragraph (e) by moving the discussion of emergency funding to § 450.216(a)(7) and retaining the discussion allowing the FHWA and/or the FTA Administrators to approve operating assistance for specific projects or programs even though they may not be included in a currently approved STIP.

There appeared to be some concern by a few commenters that Federal approval of the STIP must occur before the self-certification by the State can be accepted and therefore might hold up the certification action. The State self-certification (and the self-certification for metropolitan areas if not previously submitted) must accompany the submission of the STIP to the FHWA and the FTA and will be reviewed concurrently with the STIP. The certification action is not tied to STIP approval, only to its submission. However, the preparation and submission of the STIP will be a major factor in FHWA/FTA's determination of compliance with 23 U.S.C. 135 and section 8(q) of the Federal Transit Act discussed above.

Section 450.222 Project Selection

Several commenters discussed differences between project selection for the STIP and scheduling of projects for construction. The relationships among the participating parties in project selection for the STIP may differ somewhat from project scheduling. The FHWA and the FTA expect that all projects contained in the first year of the approved STIP will be initiated during the first year of the STIP. The sequence in which these projects are advanced for implementation is at the discretion of the funding agency with appropriate consideration to the priorities established in the TIP/STIP, particularly as they relate to TCMs in nonattainment areas. The TIPs and STIPs are considered serious programming tools which reflect State, MPO, and transit agency commitments to the utilization of Federal funds for projects they have determined to be eligible and ready to proceed. Thus, the issue of project readiness, possible phasing of projects, whether or not to use State nonattributable funds to support projects proposed by the MPO, project scheduling, etc., should be addressed by the State, MPO, and transit operator during the negotiations leading up to the development of a proposed TIP and STIP, and prior to the approval of the TIP by the MPO and the Governor. Once the Governor has approved a TIP, that action constitutes a firm commitment on behalf of the State to include all projects programmed in the TIP, including their identified funding source, in the STIP.

In considering projects for inclusion in the first year of the TIP/STIP, the level of authorized funding available to the State and metropolitan area under the ISTEA, should be used as the basis for financial restraint and scheduling for those projects to be funded with ISTEA funds. The first year of both the TIP and the STIP constitute an "agreed to" list of projects for project selection purposes except that the regulations provide an opportunity to revisit project selection if the appropriated amounts, including the highway obligation ceiling and transit appropriations, are significantly less than the authorized amounts. In such cases, if requested by the MPO, State, or the transit operator, a revised "agreed to" list of projects for project selection purposes must be developed. Regardless of these circumstances, the inclusion of projects in the first year of the approved STIP shall be viewed as a firm commitment to advance these projects during that STIP year, unless unforeseen problems arise with specific projects.

The FHWA and the FTA have revised this section to clarify that, if projects requiring FHWA or FTA funds are not included in the currently approved STIP, they are not eligible for such funding.

In response to several comments, the FHWA and the FTA have revised this section to emphasize that projects in the STIP for metropolitan areas must be selected in accordance with the project selection portion of the metropolitan planning regulation (subpart C of 23 CFR 450).

The FTA and the FHWA have revised language to clarify that non-metropolitan transportation projects listed in the first year of the STIP are to be selected in accordance with selection procedures required for the category of funds, and that they will constitute an "agreed to" list of projects for implementation and subsequent scheduling.

The FHWA and the FTA have retained the language allowing for simplified movement of projects in the second or third year of the STIP to the first year subject to procedures agreed to by the cooperating parties. Such procedures could allow all three years of the STIP to be considered selected (provided they were selected for the STIP in accordance with the selection procedures for each funding category).

Section 450.224 Phase-in

Some commenters stated that the January 1, 1995, deadline for identification of an official statewide transportation plan in full compliance with § 450.214 was unrealistic. Conversely, some commenters felt that this deadline was much too late and did not fully meet the intent of ISTEA. The FHWA and the FTA acknowledge both positions and believe that they have established a reasonable schedule for development of the official statewide transportation plan. The FHWA and the FTA have therefore retained the language in the NPRM.

Subpart C—Metropolitan Planning

Section 450.300 Purpose

Comment: Two comments indicated that the purpose of the regulation should be to require designation of "metropolitan" transportation systems.

Response: The wording of 23 U.S.C. 134(a) and section 8(a) of the Federal

Transit Act indicates that metropolitan plans and programs "shall provide for the development of transportation facilities * * * which will function as an intermodal transportation system for the State, the metropolitan areas, and the Nation." The FHWA and the FTA believe that the Congress intended local decisionmakers to address the performance of the local transportation network from a systemic perspective. The agencies do not believe that the Congress intended to require the designation of a metropolitan equivalent to the National Highway System. While metropolitan areas may find it useful to do so, designation of a metropolitan system is not required under this regulation.

Comment: One commenter observed that there was no specific mention of commuter rail as a specific modal concern of the planning process.

Response: Commuter rail is an eligible modal choice for providing transportation service under the Federal Transit Act and title 23, U.S.C. It was not singled out as a specific option simply because it was treated as one of a set of modal options that could be considered by MPO decisionmakers. Section 450.318 specifically addresses commuter rail as a modal option.

Comment: A similar comment was raised regarding the role port authorities should have in the development of the TIP.

Response: The involvement of operators of major modes of transportation in transportation programming is not required by the ISTEA except in MPOs, located in or containing TMAs, which are designated or redesignated after the enactment of the ISTEA (December 18, 1991). The FHWA and the FTA will continue to encourage the inclusion of other operators of major modes of transportation as well as, where appropriate, an increase in representation of local elected officials in MPO decision processes and committees regardless of when the MPO is designated or redesignated. The agencies believe that the Congress did not intend a general round of MPO redesignations because of the specific grandfather provision of 23 U.S.C. 134(b)(4) and section 8(b)(4) of the Federal Transit Act. Hence, the final rule does not mandate the inclusion of port authorities in existing MPOs. Their inclusion, and the inclusion of other operators of major modes of transportation, will be encouraged through guidance. The addition of transit operators and other operators of major modes of transportation or local elected officials does not constitute redesignation. It also should be noted that § 450.312 specifically requires that the development of the plan and TIP be coordinated with the other providers of transportation including port operators. Section 450.316 requires that the process provide for the involvement of various transportation agencies, including port authorities.

Comment: Amend § 450.300 to require that transportation planning address economic productivity in the context of access by citizens to employment and affordable housing.

Response: The purpose of these regulations is to implement the ISTEA requirements that are intended to improve upon the longstanding requirement for transportation planning in urbanized areas that goes back to the early sixties. Successful implementation of these requirements necessitates that the metropolitan transportation planning process be an open process in which information is shared with all interested parties and all interested parties have opportunities to participate in the process. These regulations mandate such a process.

In determining transportation needs, consideration must be given to what is necessary for the metropolitan area to be economically productive with access by citizens to employment and housing, i.e., transportation must be an integral element of other policy goals including, but not limited to, stimulating the economy and creating jobs, spawning technical innovation, and breaking through the isolation of the inner city. This involves not only stimulating commerce and increasing economic efficiency, but improving peoples' lives and their access to opportunities. The process needs to consider ways for inner-city residents to commute to areas where they can find work. In the case of new empowerment zones, both people and goods movement to and from the zones must be addressed if they are to be successful. As the transportation planning process considers these broader objectives, it becomes increasingly important for local elected officials, including mayors, to be personally involved in the process to make it responsive to the their local goals and plans as well as the needs of their constituents.

Comment: To what extent are the needs of the central city addressed by the proposed rule?

Response: While the ISTEA clearly emphasizes a metropolitan wide focus on transportation issues, the personal involvement of central city elected officials in the planning process will be a significant factor in determining whether their priorities are included in metropolitan transportation plans and programs. Their involvement also provides a mechanism for ensuring that central city issues, such as, access to jobs and affordable housing, reverse commute concerns, and economic stimulation through redevelopment or mobility projects, are addressed. For example, the growing awareness that mobility strategies may impact affordable housing and job access should be addressed during the plan development process.

While the structure of the metropolitan planning and decisionmaking process do not guarantee absolute levels of funding to the central cities or any other jurisdictions, it does provide a forum for addressing the reciprocal needs of the central cities and the suburbs. As noted in reports of the National League of Cities, the economic fate of the suburbs and the central cities are integrally tied together. Therefore, the transportation system should serve the whole metropolis and respect no political boundaries. Hence, transportation investments should be made in light of the broader context of the metropolitan community and its goals. Central cities, in many cases, have deferred infrastructure investments that eventually have to be addressed. On the other hand, growth in the suburbs has created pressure to build new facilities to serve this growth. The reciprocal assessment of these needs through the cooperative metropolitan decision process where past historic tensions are discarded and the local elected officials find creative ways to work together for the common good will ultimately provide a balanced investment strategy for the region and its central cities.

Section 450.302 Applicability

Comment: One suggestion was to include the language in the preamble to the proposed rule that describes the applicability of the regulation in the final regulatory language.

Response: The FHWA and the FTA believe that this language does not substantively improve the clarity of the regulatory language. No change has been made.

Section 450.304 Definitions

The discussion of comments received on the definitions used in the NPRM for the metropolitan planning rule is handled under the preamble discussion for subpart A.

Section 450.306 Metropolitan planning Organization: Designation and Redesignation

Approximately thirty comments were received on this section of the regulation.

Comment: Comments were received regarding the representation of concerned parties at the policy, technical, and advisory levels of an MPO, at local discretion. Several commenters addressed the representation of specific modes, including transit, ports, private providers/operators of transportation facilities including truck facilities, freight rail roads, and commuter rail roads.

Response: Nothing prevents the Governor and local officials from providing for this, or any other form of representation. Responsibility for designating voting status and participation is a matter governed by agreement between the Governor and local officials, or by State law. Membership on the MPO policy board and other committees for the various major modal representatives is strongly encouraged by the FHWA and the FTA, but not required except as provided in the requirements of the redesignation process for MPOs containing TMAs (See § 450.306(a)).

Comment: Clarification of the involvement of groups or modes that do not exist within a given metropolitan planning area was requested by one commenter.

Response: The FHWA and the FTA believe that the Congress intended that participation in MPO decisions reflect the key interests and modes within that region. Hence, the regulations do not require participation in MPO decision processes of modes or interests that are non-existent within a given region.

Comment: Clarification of the special redesignation provisions involving representatives of twenty-five percent of the affected population within an existing MPO was requested.

Response: These provisions are applicable only to the Chicago and Los Angeles metropolitan areas. Previous FHWA and the FTA guidance and communications with representatives of agencies in these areas have indicated that the legislative requirements mandate that, while representatives of twenty-five percent of the population served (including central cities) by an existing MPO can request redesignation, designation of a new MPO requires the agreement of representatives of seventy-five percent of the existing population within the existing MPO's jurisdiction (not the population of the new MPO) and the concurrence of the appropriate central cities.

An argument was advanced that these provisions would also apply to major proposals to significantly reorganize the institutional structure of the MPO and/or its service area boundaries. The FHWA and the FTA have found no legal basis for such application. Thus, for example, addition of representatives to the MPO policy board and/or its committees to provide representation for areas encompassed by planning area boundary extensions required by title 23, U.S.C. and the Federal Transit Act or provide for the representation of modal operators not previously represented will be allowed without triggering a redesignation. This position is consistent with the expressed intent of the Congress not to impose a broad wave of MPO redesignation.

Comment: Clarification of the term "voice" as applied to participation in MPO policy board and committee meetings was requested.

Response: For MPOs not redesignated or designated after December 18, 1991, "voice" is intended to mean active participation in the decisionmaking processes of the MPO, up to and including voting membership on the policy body. Voting membership, while not required, is encouraged. MPOs which include TMAs and which are designated or redesignated after December 18, 1991, are required to include representatives of operators of major modes of transportation, local elected officials, and appropriate State officials as voting members of the policy board. All other MPOs may adopt this or other representation strategies which fall short of providing voting membership.

Comment: Transit agencies must pay dues in order to be considered voting members of the MPO policy board.

Response: The requirement for dues is a local and/or State matter. It is not required by these regulations.

Section 450.308 Metropolitan planning organization: Geographic scope of metropolitan planning area boundaries

Just over ten comments were received on this section.

Comment: One commenter remarked that the Governor and the MPO should not be able to arbitrarily change the planning area boundary. It should be based on the nonattainment area boundary.

Response: Title 23, U.S.C., section 134(c) and section 8(c) of the Federal Transit Act extend the metropolitan transportation planning area boundary to the nonattainment area designated by the U.S. EPA, unless a joint decision by the Governor and the MPO is made to reduce the planning area boundary. The NPRM proposed that, if such an action was taken, it must provide for a mechanism for resolving policy conflicts over regional emission budgets. The FHWA and the FTA have adopted this approach based on the legislative direction indicated by the ISTEA.

Comment: Clarification of the process to be utilized when more than one MPO occupies a nonattainment area or metropolitan planning area was requested.

Response: The responsibility of each MPO for its portion of the overall nonattainment area or planning area boundary is a product of the urbanized area which it serves and agreement(s) with the other affected MPO(s) within the nonattainment area to divide responsibility for the remainder of the planning area. Where multiple MPOs sharing portions of multiple States are involved, an agreement shall address the responsibility of each MPO for its share of the overall planning area.

Comment: Suggestions were offered to define planning area boundaries based on passenger and freight movement and population density.

Response: The Congress defined planning area boundaries based on the Census Bureau's designated urbanized areas and areas that would become urbanized over a twenty year forecast period. The exceptions were planning areas where the local officials and the Governor extended the boundaries to the MSA and in the case of nonattainment areas. Forecasts of areas to become urbanized are to be based on the same approach used by the U.S. Bureau of the Census, i.e., a population density of 1000 per square mile. The FHWA and the FTA believe that the statutory criteria are appropriate and see no need to expand on them.

Comment: A single commenter asked for clarification of funding allocations when planning area boundaries are redefined, e.g., extended to nonattainment area limits.

Response: No change in funds available to the metropolitan planning area occurs as a result of boundary changes. For example, although suballocated Surface Transportation Program funds may be used anywhere in the metropolitan area, the suballocations are based on the population residing within the urbanized area as provided by the most recent decennial census. Congestion mitigation and air quality funds are determined on the basis of the nonattainment area population. If the

MPO and the Governor shift the planning area boundaries, funds available to the MPO do not change directly. However, the MPO's geographic scope of responsibility for system planning and programming does shift and would affect the claim made for a share of all funds available to a State. This would be an obvious factor influencing the cooperative roles of the State and the MPO in establishing priorities for programming projects identified in metropolitan plans.

Additionally, the FHWA and the FTA have made a change to the wording of § 450.308(a) to clarify the eligibility of areas excluded from planning area boundaries. In nonattainment areas which include TMAs with urbanized area populations over 200,000, if the entire nonattainment area is not included in the metropolitan planning area boundary, suballocated STP funds cannot be utilized for projects outside the metropolitan planning area boundary.

Section 450.310 Metropolitan Planning Organization: Agreements

Approximately forty comments were received on the subject matter of this section.

Comment: Several commenters indicated that the requirement for agreements is cumbersome.

Response: The requirement ensures that roles and responsibilities are clearly delineated and, thus, provide a framework for the cooperative planning process. Alternative mechanisms for satisfying the requirement through the Unified Planning Work Program (UPWP) or prospectus are identified. The involvement of State and regional air agencies is a product of the CAAA. The role of the transit operators reflects the intermodal context of the ISTEA and the intent of Congress to provide greater emphasis on transit as a means of reducing over reliance on single occupant vehicles in providing mobility.

Additionally, the agreement requirement provides a basis for formally structuring working relationships that are good practice but might otherwise be ignored. For example, agencies should share information concerning the status of projects with other agencies affected by or interested in their progress. Section 450.210 provides for this process and it should be addressed in the agreements for the metropolitan planning process.

Comment: A few commenters indicated that exclusion of a portion of the nonattainment area from the metropolitan planning area boundary must be coordinated with the FHWA, the FTA and the U.S. EPA.

Response: Provision was made in the rule for this coordination. Minor revisions were made to indicate a role for the regional air quality agency where one exists. Support for requiring an agreement where there is a reduction in the planning area boundary in a nonattainment circumstance was received from several commenters.

Comment: Several commenters indicated that in circumstances where multiple MPOs serve a complex metropolitan area, coordination between the MPOs should be required.

Response: Provision for this coordination is made within the regulatory language.

Comment: It was suggested that there should be only one agreement and it should establish the MPO and the related coordination arrangements.

Response: The legal provisions governing designation of an MPO are contained within 23 U.S.C. 134. These provisions address the creation of the MPO and its membership. The coordination provisions address the relationship of the MPO with other organizations engaged in transportation or transportation related planning activities. Further, the process of structuring the MPO addresses the issue of membership on the MPO policy board which would be charged with approving the agreements between the MPO and other agencies. The FHWA and the FTA believe that it might be unduly complicated to combine these separate activities but not impossible. To permit local and State officials maximum flexibility in designing workable local agreements, the approach articulated in the proposed rule has been retained.

Comment: One commenter asked that the agreements section distinguish between the requirements that apply to planning area boundaries and nonattainment area boundaries.

Response: These agreements are one and the same by virtue of the requirements of 23 U.S.C. 134(c) and section 8(c) of the Federal Transit Act unless a portion of the nonattainment area is excluded from the metropolitan planning area boundary. The agreement specifying the exclusion may also stipulate responsibility for planning in the excluded area. The requirement for a conformity finding in the excluded area would still apply; the agency responsible for the conformity finding would be designated in the agreement.

Comment: A few commenters suggested that simplified planning processes in marginal nonattainment areas be provided through additional agreements.

Response: The legal mandate in 23 U.S.C. 134(j) and section 8(j) of the Federal Transit Act is that simplified planning procedures may only be utilized in attainment areas.

Section 450.312 Metropolitan Planning Organization: Responsibilities, Cooperation and Coordination

Approximately 40 comments were addressed to this section of the proposed rule.

Comment: The MPO should include airport operators and address access to airports. Other operators of transportation modes should be included, most notably transit.

Response: The language of the rule has been clarified to indicate the respective roles and responsibilities of operators of major transportation modes. It is the express intent of the Congress not to force redesignation of existing MPOs. Section 450.316 requires that the process provide for the involvement of various transportation agencies, including operators of airports. However, voluntary additions of new modal representatives to MPO boards and committees is strongly encouraged. This process of coordination is not intended to confound Federal planning requirements in other modal areas, e.g., aviation. However, access to airports, marine ports, freight terminals and other major facilities must be considered as part of the planning process.

Comment: The final rule should define roles, actors, responsibilities, and duties.

Response: The structure of this section is intended to recognize the primary responsibility of State and local governments, acting through the MPO, to determine the best processes for achieving coordination among the key metropolitan and State agencies. While coordination across transportation modes and with other government agencies, e.g., historic preservation, should occur, it is the position of the FHWA and the FTA that this should be driven by local decisions regarding best mechanisms for achieving coordination. It is clearly Congress' intent that the structure and approach of both MPOs and the metropolitan planning process reflect key decisions made by State and local officials. In keeping with this philosophy, the FHWA and the FTA have attempted to provide sufficient leeway to enable State and local officials to structure effective local processes for coordination and cooperation.

Comment: The wording of this section does not recognize existing State congestion management systems or the

cooperative working relationship between the State and MPOs in developing the congestion management systems.

Response: The working arrangement between the States and MPOs in the development of congestion management systems is addressed in § 450.320 and 23 CFR 500. The structure of the relationship places final responsibility for the development, establishment and implementation of management systems with the State, recognizing that in metropolitan areas these activities are to be carried out cooperatively with the MPO and transit operator. In transportation management areas, the congestion management system must be developed as an integral part of the planning process.

Comment: Establish a single mechanism for evaluating and implementing transportation control measures.

Response: The process of developing and assuring implementation of transportation control measures (TCMs) for nonattainment areas is a joint effort of the air quality (State and regional) and transportation agencies. TCMs adopted in State air quality implementation plans (SIPs) must be coordinated with and reflected in transportation plans and programs. Ideally, TCMs requiring funding from transportation implementing agencies will not be included in SIPs without their support or commitment.

The requirement (§ 450.336(b)) to update transportation plans in nonattainment areas by October 1, 1993, was intended to facilitate this coordination. Since the rule will not be published until after October 1, 1993, this provision was not included in the final rule. Instead, it has been addressed through interim guidance. In addition, this rule, recognizing the comments received to the docket, clarifies this relationship (see discussion regarding § 450.336).

The relationship between air quality and transportation planning also partially explains the three-year update requirement for transportation plans. In order to ensure that TCMs are identified and implemented and that the transportation sector continues to fulfill its responsibilities with regard to clean air, plans must be revised more frequently than in the past.

Comment: Pedestrian and bicycle transportation facility studies should be referenced in the metropolitan plan.

Response: Section 450.322(b) (2) and (3) require the identification of pedestrian and bicycle facilities in the metropolitan transportation plan. Both pedestrian walkways and bicycle facilities require continuity to be useful. Coordination of pedestrian and bicycle facilities to create a connected system across local jurisdictional boundaries is essential if these systems are to serve a transportation function. For the same reasons that motor vehicle roadways are planned at a regional level, so too must pedestrian and bicycle facilities be planned as a connected system to serve destination oriented transportation needs. Therefore, pedestrian and bicycle facilities must be addressed in the metropolitan plan.

Comment: Geographic application of conformity analysis should not extend to maintenance areas.

Response: The proposed U.S. EPA rule on conformity analysis dictates the application of conformity analysis to maintenance areas. This metropolitan transportation planning rule simply recognizes this requirement.

Section 450.314 Urban transportation Planning Process: Unified Planning Work Programs

Two modifications were made to the proposed rule by the FHWA and the FTA for clarification and simplification purposes. Section 450.314(a)(3) requiring demonstration that adequate staff and funds were being committed to high priority projects was dropped as being unnecessary and burdensome. Section 450.314(d) was modified by adding the last sentence to the final wording. This change facilitates submission of simplified work programs (produced by smaller MPOs) by allowing their submission with State work programs.

Approximately 30 comments were received on this section of the regulation.

Comment: A general concern voiced by several writers was the broad inclusion of all metropolitan transportation planning activities regardless of funding source within the UPWP. A parallel concern was raised concerning the one- or two-year timeframe.

Response: This provision continues a current requirement. The intent is to broaden MPO awareness of activities and plans that impact surface transportation. It does not require the MPO to assume responsibility for those planning activities outside its jurisdiction or for Federal programs outside those already within its purview. Since the intent of the legislative revision incorporated within the ISTEA was to improve the performance of the transportation system as a whole, it is consistent that planned improvements should be based on all key decisions affecting growth and development within the metropolitan area. An additional reason for this requirement is to ensure that the work plan proposed by the MPO is consistent with and does not duplicate other planning activities in the region. Accountability for the final work products remains with the organization initiating them, even if performed by another organization under contract.

Comment: If the UPWP contains a corridor or subarea study, then the determination of funding level, end products and schedule of analysis will be complicated by the fact that the magnitude of the project studied will not be determined until the findings of the scoping conference are approved.

Response: The scope of a major investment study can be amended after a scoping conference. The scoping conference can occur prior to inclusion of the major investment study in the UPWP. Since a major investment study will address improvements of substantial scale, it is unlikely they will be completed within a one year timeframe. Therefore, changes to the UPWP resulting from a change in the scope of a proposed major investment study may be made at that time. Additional funding for large studies is available through the ISTEA flexible funding provisions for STP, Bridge, Section 9, NHS, etc., funds. When 23, U.S.C., Chapter 1, capital funds are utilized, the major investment study shall be included in the TIP to reflect the utilization of funds for planning and the scale of the work undertaken.

Comment: MPOs should develop UPWPs "in consultation with " the State and transit operators.

Response: The structural relationship among the State, MPO and transit operator reflects the mutual responsibilities shared by these entities in the cooperative development and implementation of transportation plans and programs. The transit operators are the primary recipients for most FTA funds for transportation improvements and their participation becomes a key factor in the successful utilization of such funds. A similar point can be made with regard to the utilization of flexible funds. Thus, the rule relies on a cooperative working relationship among all three entities to develop UPWPs.

Comment: Implementation of the management systems should take place as soon as possible but no later than January 1, 1995.

Response: The implementation schedule for the management systems is addressed in a separate rulemaking process (See 23 CFR 500 as proposed). The rationale for the implementation schedule for the management systems

will be discussed in the preamble to that rule.

Comment: The utilization of a prospectus to satisfy the requirements of § 450.310 is inappropriate because it is not required by statute.

Response: The prospectus is an optional mechanism for meeting the requirements stipulated in this section. Its use will facilitate agreements in some areas. Authority to utilize this mechanism stems from the general authority granted the U.S. DOT to develop mechanisms to implement legislative requirements.

Comment: Activities funded in the metropolitan area with State highway research funds should be included in the metropolitan UPWP.

Response: While the work to be funded remains the responsibility of the State, the UPWP must include the State planning and research funded activities related to the metropolitan planning process. This requirement also applies to FTA funded State planning and research activities under the Federal Transit Act section 26(a)(2) program.

Section 450.316 Metropolitan Transportation Planning Process: Elements

Significant changes have been made to this section reflecting both comments received and further clarification of the provisions by the FHWA and the FTA. Some of the elaboration of individual planning factors has been reduced or clarified and the public participation requirements have been substantially revised. The general section of this preamble describes the basic approach and philosophy to public involvement taken by FHWA and FTA which is basically that the planning process is open to all and should provide the opportunity to those desiring to participate to do so. As in the State planning process, it is the responsibility of the participating agencies to ensure that the process provides the opportunity for participation for interested parties, which include private sector as well as public sector providers of both freight and passenger transportation. As noted in the previous discussion of comments on the supplemental questions, no changes were made to the option for simplified planning processes.

Over sixty comments were received on this section of the rule.

Comment: Specific Federal guidance should be provided on what measures should be considered in prioritizing the fifteen statutory factors and planning products.

Response: The FHWA and the FTA plan to issue guidance on the application of the fifteen factors in the planning process rather than attempt to specify a standard approach that fails to consider the inherent diversity of metropolitan areas. The Congress did not specify the detailed extent to which each factor should be considered. The proposed rule indicated simply that each of the fifteen factors shall be considered.

The final rule indicates that each factor shall be explicitly considered and analyzed as appropriate. Consistent with the above, the FHWA and the FTA generally have chosen not to add additional elaboration to individual factors as requested by some commenters. Indeed, the agencies have clarified or eliminated some previously supplied elaboration for §§ 450.316(a)(1) and 450.316(a)(9) as not essential in the regulatory context. An addition, however, to § 450.316(a)(13) identifies the human environment as a subject for consideration. This addition indicates the important role that transportation systems play in addressing social concerns such as access to affordable housing and jobs. It further highlights the need to make transportation planning consistent with plans developed to address other metropolitan concerns, e.g., employment, energy, housing, community development, etc.

Comment: Clarify that § 450.316(a)(6) applies only to regionally significant projects.

Response: The wording remains unchanged because the wording of 23 U.S.C. 134 and section 8 of the Federal Transit Act requires the consideration of all projects. The Congress intended that the planning process address all projects that would significantly affect the performance of the transportation system and air quality.

In the context of an intermodal transportation system, non-surface transportation improvements and their impacts on the surface transportation system should be addressed. For example, marine port and airport improvements can have significant consequences for existing or proposed access routes. To foster consideration of these linkages and the impact of such improvements on the Federally supported transportation system, the FHWA and the FTA are requiring the consideration of all improvements, regardless of funding source. Similarly, metropolitan planning analyses should address linkages of metropolitan facilities to facilities outside the metropolitan planning area boundary, e.g., commuter rail, etc.

Comment: Does the requirement for consideration of the congestion management system outputs apply after January, 1995 when they must be operational?

Response: Consideration of the outputs of the management systems should begin as soon as the management systems produce useful data, analysis, or strategies. Even before the systems are fully operational, they can provide information that is useful in the development of plans and TIPs.

Comment: Require the identification of bicycle and pedestrian facilities as transportation enhancement improvements.

Response: The identification of bicycle and pedestrian facilities is required in transportation plans under § 450.322 (b)(2) and (b)(3). Pedestrian and bicycle improvements may be funded under the transportation enhancement program.

Comment: Add commuter rail projects utilizing existing rail rights-of-way to § 450.316(a)(1) which requires preservation of existing transportation facilities.

Response: The generic language of this planning factor encompasses the intermodal philosophy and facilities orientation of the ISTEA and a specific listing of elements of individual modes, e.g., transit, and, thus, a specific list of individual modes is not considered warranted.

Comment: For interim air quality conformity, the guidance should be clarified to state that policy plans are acceptable as a basis for determining plan conformity.

Response: Metropolitan policy plans are not acceptable for conformity purposes. The level of detail is insufficient to demonstrate that the financial resources are available to implement the plans and to make conformity determinations as required under the U.S. EPA conformity rules. In attainment areas, the level of detail shall reflect the complexity of the transportation system. However, in all cases there must be sufficient detail to develop a financial plan for implementation purposes.

Comment: Strengthen and elaborate the specifics of the public involvement process for the transportation plan.

Response: The requirements for public involvement have been substantially strengthened in the final rule. The requirement for a 45-day comment period on the establishment of the metropolitan public involvement process has been retained. Further, the characteristics and performance expectations of the metropolitan public involvement process have been substantially elaborated. For FTA grantees, this revised public involvement process will satisfy the

requirement for an opportunity for a public hearing under sections 3 and 9 of the Federal Transit Act. The FTA will revise Circular C9030.1A to reflect this change for section 9 and incorporate this change in its new section 3 circular.

A number of commenters recommended the inclusion of requirements for specific procedures, including but not limited to the formation of advisory committees, full access to all data and data analyses, a minimum number of public meetings, specific timeframes for notices, etc. Rather than adopt specific standards that might inappropriately burden MPOs and States, the FHWA and the FTA have adopted a "performance" approach which identifies what an effective involvement process should achieve. The States and MPOs may custom design procedures which achieve these objectives and which are suitable for the local context, except that certain minimum requirements are specified in nonattainment TMAs. Supplemental guidance will be developed and issued to assist States and MPOs in developing and implementing involvement procedures.

The FHWA and the FTA have taken this approach to promote innovative and effective involvement processes. The performance criteria will be addressed in all certification and planning reviews as a means of stimulating locally designed mechanisms for achieving these objectives. Such locally designed approaches would as a minimum, provide opportunities for comment to those interests specifically identified in the legislation and other interests deemed important in a specific metropolitan context. Additionally, while nonattainment and maintenance areas have special concerns to address, the public involvement performance criteria apply to all metropolitan areas. The FHWA and the FTA considered requiring that these public involvement processes be subject to direct Federal approval. However, the less burdensome approach of including them in certification or planning reviews was adopted.

Comment: Clarify the simplified planning process.

Response: A simplified planning process is available to MPOs which are not TMAs and which are in attainment status. The extent of procedural simplification is a product of negotiations between the appropriate FHWA Division and FTA regional offices and the proposing MPO and State. The intent is to reduce analytical efforts to those sufficient to meet the objectives of the Federal program within the context of the transportation system complexity facing a given metropolitan area. Hence, while all fifteen factors must be considered, the degree to which data gathering and analysis is necessary to consider them will be decided cooperatively on a case-by-case basis.

Comment: Clarify whether the omission of the UPWP as minimum product in non-TMAs was intended.

Response: A work program is required for all MPOs. However, the work program in non-TMAs can be less detailed. It is not a product of the planning process, but instead identifies the activities that will be carried out as part of the planning process.

Section 450.318 - Metropolitan Transportation Planning Process: Major Metropolitan Transportation Investments

Approximately seventy commenters raised questions concerning this topic. Many of these comments raised issues regarding the lack of clarity in the intended focus of the major investment analysis and its linkage to the planning process. A number of commenters questioned which agency should be lead for the purposes of completing the required analytical work. To respond to these general concerns the FHWA and the FTA have revised the definition of a major investment to clarify when such a study may be necessary and how it should be managed. Such investment studies should occur before a particular investment is ultimately defined in an area's approved plan. Pending the completion of such studies, either the "no build" option or one or more build alternatives may be assumed for the conformity determination under the U.S. EPA conformity rule and for regional financial analyses. To facilitate the identification of promising alternatives warranting more detailed analysis in the corridor/subarea study the participating agencies should consider an initial, sketch level analysis of potential alternatives. After a corridor/subarea study is completed, the plan would be revised to reflect the specific decision resulting from the study.

To facilitate the determination of the need for such a study and its scope, provision is made in the regulation for a cooperative process to include, at a minimum, the State, MPO, transit operator, affected local officials, environmental and resource agencies, FHWA, FTA, and operators of other major modes of transportation, as appropriate. To initiate the cooperative process, the affected parties will meet to define the conduct of the study, including the respective roles of the participating agencies and the determination of the lead agency. While the MPO may have the lead in many cases, it may be appropriate for the State or transit operator to have the lead where they have the analytical capacity or expertise. The alternatives to be considered in such a study should be broad ranging in character. They may include, but are not limited to, traditional highway and transit options as well as multimodal options.

Properly done, major investment analyses should broaden the consideration of options earlier in the planning process such that local and State officials are provided a broader array of choices to improve the performance of the transportation system.

These studies should also be undertaken with the intent that they will substantially improve the linkage between the planning process and environmental review process required under the National Environmental Policy Act and other statutes. This will not only reduce the redundant analyses which are currently being done but also provide for early consideration of environmental impacts. As a minimum, the major investment analysis should result in the identification of the preferred alternative(s). The environmental document could then reference and draw upon the corridor study and the early consideration that the study gave to alternatives and environmental factors and focus on design options for the preferred alternative. Another option available under the regulation would be for the lead agency and the responsible Federal agencies to develop a draft Federal environmental document as part of the corridor study. This study could, for example, be used as the basis of a draft environmental impact statement. In such cases, the corridor studies would need to include the environmental studies, interagency coordination, public involvement, etc., necessary to meet the requirements of 23 CFR 771.

Additionally, as provided for in the ISTEA, the FTA is required to conform its review requirements for transit projects under NEPA to comparable FHWA requirements applicable to highway projects. The major investment analysis achieves this goal in part. Also required by the ISTEA will be a revision to the FHWA's and the FTA's environmental regulations to modify procedural requirements. This process has been initiated and will be completed as soon as possible. Additionally, the FHWA and the FTA will be issuing guidance regarding the major investment analysis process.

Comment: Clarify review responsibilities of Federal agencies for corridor and subarea studies.

Response: Reviews will be conducted jointly by the FHWA and the FTA. The major investment studies will satisfy the FTA alternatives analysis requirement and the review procedures will be jointly administered by both agencies.

Comment: Clarify the definition of a major transportation investment, and provide examples of "significant capacity increases and require substantial public investment."

Response: The definition of a major investment has been revised to provide a clearer indication of what a major investment is intended to be. The rule now states that a major investment refers to a high-type highway or transit improvement that involves substantial cost and that is expected to have a significant effect on capacity, traffic flow, level of service, or mode share at the transportation corridor or subarea level. The definition also provides examples of such investments and projects which would not be considered major investments. The lists of what is or is not an investment are not intended to be exclusive. Generally, major highway investments would involve facilities that are important to regional travel, i.e., principal arterials, and substantial capacity adding improvements where private access to a new or existing facility is not permitted. In most cases, highway improvements on facilities not classified as principal arterials or improvements on new or existing facilities where private access is permitted would not be considered major investments. Generally, major transit investments would involve new fixed guideway facilities or substantial changes to existing fixed guideway facilities. In most cases, new bus service (or changes to existing bus service) operating on the regular street system would not be considered major investments. It is the responsibility of State and MPO officials, in concert with the FHWA and the FTA and other affected parties, to arrive at a determination of whether an improvement constitutes a major investment. The relative scale of such investments makes it difficult to specify a dollar value or specific project type as a defining basis for a major investment. It is the FHWA's and the FTA's intent to assist MPO and State officials in effectively managing the Federal resources available to them. Major investments will constitute a major potential cost to individual metropolitan areas. Hence, they should be evaluated carefully. Similarly, specific modal options and analyses should be based on local conditions. Where appropriate, the study should address the movement of goods as well as the movement of people, for example, freight and commuter rail. Parallel concerns are applicable to commuter rail.

Comment: Major investments have no basis in legislation.

Response: The ISTEA requires the development of transportation systems embracing various modes of transportation in a manner which will efficiently maximize mobility of people and goods and minimize transportation related fuel consumption and air pollution. The legislation also specifically requires that the planning process be comprehensive to the degree appropriate, based on the complexity of the transportation problems. The FHWA and the FTA believe these requirements provide a basis for ensuring that proposed major investments are evaluated through a process that considers an appropriate range of alternatives and their cost-effectiveness and impacts. This also will assist in subsequently addressing the NEPA requirement for considering alternatives. Corridor and/or subarea studies will generate estimates of costs, effectiveness, and impacts at the level of detail necessary for informed choices to be made.

Further statutory basis is found in Section 3(i) and 8(h)(4) of the Federal Transit Act. Section 3(i) requires an alternatives analysis for fixed guideway transit projects. In the past, FTA had merged the alternatives analysis process with the preparation of the draft environmental impact statement. Major transit projects thus faced different, and possibly more complex, procedural requirements than major highway projects. However, Section 3012 of the ISTEA (Section 8(h)(4) of the Federal Transit Act) required the FTA to conform its environmental review requirements with those of the FHWA. The major investment procedures are the first step in reconciling the agencies environmental requirements.

Comment: Major investment studies should be funded with other than FHWA planning or FTA section 8 funds.

Response: Depending upon the scale of the study and funds available to a metropolitan area, major investment studies may be funded from any category of planning as well as capital funds since the studies will most likely involve activities generally funded as preliminary engineering. When title 23 capital funds administered by the FHWA are used, the project must be included in the TIP because of the scale of cost and the utilization of capital funds and to ensure that implementing agencies are aware of the decision to use these funds for planning activities.

Comment: Make a distinction between subarea and corridor.

Response: A corridor involves a nominally linear transportation service area that may have an existing highway or transit improvement serving it. A subarea may focus on a non-linear part of a metropolitan area, such as an activity center or other geographic portion of the region. Neither a corridor nor a subarea have a predefined size or scale. They refer to a geographic focus that may be dictated by existing or proposed systems or transportation demand.

Comment: The major investment planning process should be undertaken where historic and archeological compliance process pursuant to 23 CFR 771 and 36 CFR Part 800 has not been initiated.

Response: The requirement for a major investment study is being phased in. The FHWA and the FTA expect that all future studies will encompass at least the initial phases of the environmental process. The "initiation" of the environmental review process under 23 CFR 771 was chosen as a convenient break point for determining which projects would be subject to the major investment analysis requirement. Where the environmental process has already been initiated, the regulation establishes a cooperative process to determine the extent to which ongoing studies should be modified.

Comment: Analysis under the National Environmental Policy Act (NEPA) will help to prioritize the utilization of scarce Federal resources.

Response: The planning process is the best mechanism for prioritizing the utilization of scarce Federal resources. However, the intent of this requirement is to integrate planning and environmental requirements at the planning stage so that alternative courses of action, their costs and environmental effects as well as transportation demand are considered at that point. This will streamline the environmental process and help to assure that a particular alternative does not become "locked-in" before the environmental and other effects have been considered.

Comment: Some subareas are part of larger statewide, interregional corridors that may be studied over the objection of an MPO.

Response: The requirements of § 450.310 indicate that coordination among MPOs must be undertaken in such areas for transportation plans. The same is true for major investment

studies. In addition, the metropolitan planning process must be carried out cooperatively by the MPO and the State and the statewide planning process by the State in coordination with the MPO. Thus, issues on such corridors should be resolved through these cooperative efforts.

Comment: Requirements should apply only to projects with Federal funding.

Response: It is unlikely that the funding sources for a project of the scale envisioned for major investments will be fully known prior to the initiation of the study. Even if they are, since all projects are to be part of the transportation plan regardless of the funding source, it still would be advantageous for the MPO to utilize this process to ensure that decisions are based on a comprehensive evaluation process. The regulation has been revised to state that corridor and/or subarea studies are not required unless Federal funds are potentially involved.

Comment: The issue could involve differences between a concept (sketch) plan for the twenty year period, a financially constrained plan for five to ten years, and the TIP for three to five years.

Response: Plans must be financially constrained over the twenty year period. The TIP implements a plan through a program of projects.

Comment: How do the required major investment studies relate to single occupant vehicle projects that must be justified through a congestion management system?

Response: Since the SOV restriction applies only to TMAs that are nonattainment for carbon monoxide and/or ozone, the CMS (as well as the major investment study) would be implemented through the metropolitan planning process. For a project subject to both requirements, it is expected that a single study/analysis would be undertaken to satisfy both requirements.

Comment: It is too difficult to develop a financially balanced TIP and plan because of the various alternative modes that must be considered.

Response: The requirement to develop a financially constrained TIP is legislatively mandated. The FHWA and the FTA will be developing guidance to assist in this process. The rule establishes a process through which the scope and design concept in the plan are not finalized for major metropolitan investments until the studies in § 450.318 are completed and one alternative has been chosen by the MPO in cooperation with the participating agencies. Where the major investment analysis has not been completed and closure has not been reached on a particular alternative, an alternative may be included in the plan as an assumption in accordance with § 450.322(b)(8) for the purpose of clean air conformity, financial analyses, and other purposes.

Section 450.320 Metropolitan Planning Process: Congestion Management System

In general, the FHWA and the FTA have modified this section of the regulation to address the relationship of the planning process to the management systems in general and not just the congestion management system. This change was made to eliminate the confusion that appeared to exist in terms of the general relationship between planning and the management systems noted in the earlier preamble discussion. In response to questions as to what constitutes a significant increase in SOV capacity, clarifying language has been added. Further, it should be noted that data collection and analysis in support of performance measures of the transportation system are eligible costs under title 23 and the Federal Transit Act and may require non-traditional funding strategies, e.g., use of flexible funding sources, to support the level of effort required in a given metropolitan area and/or State. The restrictions on programming SOV projects in TMAs that are nonattainment for carbon monoxide and ozone that were included in the NPRM on the CMS have been added to this section and deleted from the rules being developed for the management system. Programming restrictions are more appropriately addressed in the planning rule. The requirements for special analyses for SOV facilities will be contained in the CMS final rule when it is published.

Approximately twenty-five comments were received on this section of the rule.

Comment: The congestion management system should be part of the MPO planning process and local governments should participate in the development of the management systems.

Response: The development of the management system is a cooperative process involving the State, transit operator, and the MPO. The MPO is the vehicle through which local governments are able to provide input to the development of the system. In TMAs, the CMS must be developed as part of the metropolitan planning process. To the extent appropriate, the congestion, intermodal and public transportation management systems must be developed as part of the metropolitan planning process in all metropolitan areas.

Comment: The rule should delineate a three-year period of review for management systems.

Response: The implementation of the management system is detailed in 23 CFR 500 as proposed and will be included in the final rule when issued. The implementation schedule is being reviewed for possible extension to permit more time for development and implementation of the management system.

Comment: Clarify requirements for the congestion management system.

Response: These requirements are detailed in 23 CFR 500 as proposed and will be included in the final rule when issued.

Comment: Mention planning for heliport or vertiport facilities.

Response: These facilities would be addressed as part of the planning process for the development of intermodal and transportation plans as deemed appropriate by the MPO.

Comment: Define significant increases in single occupant vehicle capacity.

Response: For the purposes of the SOV restriction in TMAs that are nonattainment for carbon monoxide or ozone, the final rule indicates that this applies to adding general purpose lanes to an existing highway (except for elimination of safety or bottleneck problems) or to constructing a new general purpose highway on a new location.

Comment: Coordination of management systems in multi-State urbanized areas should be limited to information exchange.

Response: The requirements for coordination of the management systems are detailed in the management system regulation 23 CFR 500, except where the management systems are developed as part of the metropolitan planning process, e.g., CMS in TMAs where the coordination requirements for metropolitan plans will apply. Because the management systems must produce more than information, i.e, strategies for improving system performance, the coordination process cannot be limited just to information exchange. Coordination will have to address strategies also.

Comment: The absence of "cost effectiveness" or "political feasibility" criteria may leave States and MPOs in a difficult position for SOV projects.

Response: The legislative mandate provides little qualification with regard to the basis for justifying single occupant vehicle projects. They must result from a congestion management system. In developing the management systems, State and local officials will have the opportunity to specify the

criteria they will use for assessing strategies. These criteria could include "cost-effectiveness" and "political feasibility". However, in TMAs that are nonattainment for ozone or carbon monoxide the requirements of 23 CFR 500.505(e) must be met.

Comment: Define period of validity for management system evaluation to be the same period as TMA certification.

Response: In TMAs, the certification process will address the management systems in general. Their implementation would be just one consideration in determining whether a planning process should be certified. However, the periodic review of the management systems is a separate requirement that is not tied to the certification process. States must certify that they are implementing the management systems annually by legislative mandate. This and other management system related questions are addressed in the management systems rule (23 CFR 500).

Section 450.322 Metropolitan Planning Process: Transportation Plan

The FHWA and the FTA made two modifications to clarify wording and reflect the cooperative development of the final rule with the U.S. EPA. A clarification has been made to § 450.322(b)(1) where "near term" transportation demand has been changed to "demand over the life of the plan." A modification in relation to the U.S. EPA conformity rule has been made by requiring an annual public meeting in TMAs that are nonattainment.

Approximately sixty comments were received concerning the content of the plan.

Comment: Plan updates should be less frequent and left to local discretion.

Response: The frequency of required updates reflects the dynamic nature of the planning process. While transportation plans will continue to serve as a fundamental product of the planning process, their function is changing from documentation of system development to contemporary decision tool. Integration of short term system operation and maintenance concerns with longer term capacity management issues will force plans to be more dynamic. The transportation linkage to air quality in nonattainment areas requires that plans be more sensitive to changing environmental conditions and responsive to goals established by the Clean Air Act. Hence, the schedule for updating transportation plans is tied to the schedule for conformity determinations. Furthermore, it is the expectation of the FHWA and the FTA that State air implementation plans will be based on the adopted transportation plan for a metropolitan planning area and vice versa. Any transportation control measures needed for the area will need to effectively reduce the transportation related emissions resulting from the adopted plan.

To reflect these concerns, the FHWA and the FTA have identified a schedule of updates that maintains the technical utility of plans and their ability to serve State and local decisionmakers needs. Formally updating a plan does not require an entirely new plan but does require a review of plan assumptions, transportation trends, the development in the area, air quality considerations, system characteristics, and extension of the forecasts to maintain a twenty year horizon. This will ensure that fundamental forces and factors affecting the operation, maintenance and development of the transportation system are adequately addressed. The FHWA and the FTA will be issuing guidance to assist State and MPO officials in updating plans.

Comment: Too much detail is required in the twenty year plan.

Response: Most of the detail relates to mandates in the ISTEA or CAA and is, therefore, a minimum level of detail required. Further specification of detail, e.g., specific identification of modal options such as commuter rail, greater specificity for cost estimating, better integration of air quality, socioeconomic and land use needs, or greater reliance on land use scenarios in preparing plans, was resisted because of the existing detail in the legislation and the need to permit MPOs and States the flexibility to tailor plans to local conditions. The detail required achieves a balance between legislated mandates and State/local determination of performance expectations for transportation systems. This permits tailoring of options and analyses to local conditions.

The financial plan requirement has been amplified to give greater clarity to the intent of the statute. Specifically, the requirement indicates that a plan for meeting revenue shortfalls through strategies for developing new or increased revenues must be a part of the transportation plan. The development of these strategies permits metropolitan areas to plan for system development utilizing current and reasonably available new revenues over a twenty year horizon which is very difficult to concretely forecast in detail. At the same time, this flexibility is consistent with the congressional intent to make plans more "realistic" by constraining them to revenues reasonably available to a metropolitan area and State. The MPOs and the States will need to work cooperatively to identify revenues available to the area, including forecasts of Federal, State, local, and private revenues. Technical assistance on forecasting funds and utilizing alternative revenue sources will be provided. Financial constraint of the plan and TIP is discussed in more detail under the comments addressed to § 450.324.

Comment: Require the planning process for the long range plan to include the identification of a metropolitan transportation system consistent with the requirement of the ISTEA.

Response: The designation of a metropolitan transportation system is not a requirement in the ISTEA. However, the plan will identify the regional transportation network that serves the metropolitan area. In this sense, the plan will address a metropolitan transportation system. However, it is not the intent of the FHWA or the FTA to require designation of metropolitan transportation system in the same vein as the National Highway System is designated.

Comment: Aviation planning and funds should be excluded from the responsibility of the MPO.

Response: It is not the intent of the regulation to imply that airport planning is the responsibility of the MPO. However, the intermodal philosophy of the ISTEA emphasizes the need to ensure linkages among various modes of transportation, and access to airports along with access to other important intermodal terminals must be considered as part of the planning process. The final rule retains the language originally proposed to emphasize the necessity of MPOs to be aware of related planning and investment activities that will impact those for which they are directly responsible. Similarly, MPOs should be aware of and take into account aviation improvements in terms of their potential impact on surface transportation needs.

Comment: Revise § 450.322(b) to modify reference to transportation enhancements and to include reference to historic preservation plans and Indian tribes.

Response: The FHWA and the FTA have kept the references in this section as general as possible to permit flexibility for MPOs in developing plans. The reference to transportation enhancement in § 450.322(b)(10) is in accordance with statutory language. However, § 450.312 was modified to require involvement of appropriate

Federal and tribal agencies in the development of plans and TIPs where the metropolitan planning area includes Federal public lands and/or Indian tribal lands.

Comment: Delete reference to major investment studies.

Response: The FHWA and the FTA have decided to retain the major investment process in the final regulation for reasons set out earlier in this preamble. Moreover, the level of information required must be consistent with the requirements of the U.S. EPA's conformity regulations. New conformity determinations on plans for nonattainment and maintenance areas will be required where there are regionally significant changes in the plan.

Comment: Define affected public agencies in terms of which agencies should be consulted for input.

Response: The FHWA and the FTA are encouraging a broad approach to this process of consultation. It is up to the MPO and other partners in the planning process to solicit input from appropriate agencies in each metropolitan area.

Comment: The rule should apply only to Federally funded transportation control measures.

Response: Metropolitan planning must address all transportation control measures in nonattainment areas to ensure a comprehensive approach to this issue, consistent with the approach taken in the Clean Air Act.

Comment: Encourage evaluation of the impacts of projects on land use and alternative land use scenarios.

Response: The ISTEA requires consideration of land use in the development of transportation plans. In complex metropolitan areas, land use would be a significant factor in developing these plans and should be comprehensively considered by the MPO.

Comment: Tie updates of the transportation plan to updates of SIPs in maintenance areas.

Response: The schedule for updating the transportation plan in maintenance areas is the same as in nonattainment areas since conformity reviews are required in both of these areas.

Comment: Identifying pedestrian walkways and bicycle facilities is not appropriate at a regional scale.

Response: The requirements for this consideration are specified in 23 U.S.C. 217(g). Specifically, the law requires that pedestrian walkways and bicycle facilities be developed as part of the metropolitan and statewide planning process and that they be included in the overall metropolitan and statewide transportation plan.

Section 450.324 Transportation Improvement Program: General Content

Several changes have been made to the structure of this section in addition to some substantive modifications. The provision permitting exclusion of emergency relief projects (paragraph (n) in the NPRM) has been redesignated as paragraph (f) and modified to add the exclusion of safety projects. Emergency relief projects are fully excluded from the TIP except those which involve substantial functional, locational or capacity changes to existing facilities, which shall be included in the TIP.

The provision prohibiting suballocation of STP funds (paragraph (l) in the NPRM) has been redesignated as paragraph (k). It remains unchanged. Several comments were received, some expressing opposition to, some support for, this provision. In reviewing these comments the FHWA and the FTA did not find any substantive reason to modify the wording as proposed.

Paragraph (e) has been modified to make it clear that each year of the TIP must be financially constrained and to limit the sources in nonattainment and maintenance areas to sources that are available or committed. A new paragraph (m) has been added to indicate how to estimate and handle Federal Transit Act section 3 funds for the purpose of determining available revenues.

The provision permitting approval of operating assistance in the absence of an approved TIP remains unchanged but is redesignated as paragraph (o).

In response to comments, paragraph § 450.324(b) has been modified to make it clear that the frequency and cycle for updating the TIP must be compatible with the STIP development and approval process. In addition, language has been added to indicate that since the TIP becomes part of the STIP, the TIP lapses when the FHWA and FTA approval of the STIP lapses. Reference is also made to the provision in § 450.220(e) that allows the FHWA and the FTA to approve short extensions of the STIP approval for all or part of the STIP in the event submission of a new STIP is delayed due to extenuating circumstances. Where the request for an extension involves projects in the metropolitan planning area, the MPO must concur in the request for an extension and if the delay is due to problems in developing the TIP, the MPO must provide information to support the request for the extension. In nonattainment and maintenance areas, the conformity determination on the TIP must still be valid under EPA's conformity regulations and the period of extension cannot exceed the life of the conformity determination.

Approximately 70 comments were received on this section of the rule.

Comment: Several comments on financial plans were received, e.g., financial plans should be very generalized; should only require identification of Federal sources; clarify responsibilities of the States in helping to define available resources, particularly with respect to Federal funds that are distributed throughout the state; it should be recognized that in the absence of suballocation of funds, metropolitan TIPs may cumulatively exceed the resources of the State; MPOs do not know actual apportionments when developing their TIPs, therefore, allow flexibility for this; the public and interested parties should have an opportunity to comment on the financial plans.

Response: It is very clear from the report language that the Congress included the requirements for financial plans for both transportation plans and the TIPs because of concerns with pre-ISTEA "wish list" transportation plans and TIPs.

The statutory language specifically requires that the financial plan indicate the resources from public and private sources that are reasonably expected to be made available to carry out the plan. In response to concerns related to demonstrating conformity with the SIP and assuring that funds are available to give priority to TCMs in nonattainment areas, additional requirements have been included for nonattainment areas.

With respect to the comments concerning lack of information on funds under State control, etc., it is essential that the financial plans be developed by the MPO, in cooperation with the State and the transit operator, just as all other elements of the metropolitan transportation planning process are carried out through a cooperative process. Through this cooperative process, agreement on the funding to be used to implement the transportation plan and TIP should be reached. Since the State will be involved in the development of all TIPs as well as the STIP, the cumulative total of the State/Federal funds in the TIPs and STIP should not exceed, on an annual basis, the total State/Federal funds reasonably available to the State. In the case of funds controlled by the State, approval of the TIP by the Governor will be considered a commitment of funds to implement projects in the TIP.

Since the financial plans will be included in the metropolitan transportation plans and TIPs, the public and other interested parties will

have an opportunity to review and comment on the financial plans through the public involvement process required under these regulations. Similarly, agencies involved in the conformity process will have an opportunity to review and comment on the financial plans through the interagency consultation procedures contained in the U.S. EPA conformity regulations which require that there be a process for circulating draft documents (including plans and TIPs) for comment prior to approval.

The following general guidance on the development of financial plans is being provided in response to requests for such guidance. As indicated in the regulatory language, the financial plan must demonstrate which projects can be implemented annually using current revenue sources and which projects are to be implemented annually using proposed new revenue sources while the existing transportation system is being adequately operated and maintained. This means that priority should be given to the maintenance and operation of the existing system including capital replacement. A credible cost estimate and replacement schedule must support this assessment. Notwithstanding the need to give priority to preservation of the existing system, in nonattainment areas priority must be given to the implementation of TCMs included in the approved SIPs.

For years 1 and 2 of the TIP in nonattainment and maintenance areas, the funds must be available or committed. Available funds means funds derived from an existing source of funds dedicated to or historically used for transportation purposes which the financial plan (in the TIP approved by the MPO and the Governor) shows to be available to fund projects. In the case of State funds which are not dedicated to or historically used for transportation purposes, only those funds over which the Governor has control may be considered to be committed funds. In this case, approval of the TIP by the Governor will be considered a commitment of the funds. For local or private sources of funding not dedicated to or historically used for transportation purposes (including donations of property), a commitment in writing/letter of intent by the responsible official or body having control of the funds will constitute a commitment. Where the use of State, local or private funds not dedicated to or historically used for transportation purposes is proposed and a commitment as described above cannot be made, this funding source should be treated as a new funding source and must be demonstrated to be a "reasonably available new source."

With respect to Federal funding sources, "available" or "committed" shall be taken to mean authorized and/or appropriated funds the financial plan shows to be available to the area on an annual basis. Where the transportation plan or TIP period extends beyond the current authorization period for Federal program funds, "available" funds may include an extrapolation based on historic authorizations of Federal funds that are distributed by formula. For Federal funds that are distributed on a discretionary basis, including Section 3 and "demo funding," any funding beyond that currently authorized and targeted to the area should be treated as a new source and must be demonstrated to be a "reasonably available new source."

For periods beyond years 1 and 2 of the TIP in nonattainment and maintenance areas, for TIPs in other areas, and for the transportation plan, funding must be "reasonably available," but need not be currently available or committed. Hence, new funding sources may also be considered. New funding sources are revenue sources that do not currently exist or that require some steps (legal, executive, legislative, etc.) before a jurisdiction, agency, or private party can commit such revenues to transportation projects. Simply identifying new funding sources without identifying strategies for ensuring their availability will not be acceptable. The financial plan must identify strategies for ensuring their availability. It is expected that the strategies, particularly for new funding sources requiring legislation, voter approval or multi-agency actions, include a specific plan of action that describes the steps that will be taken to ensure that the funds will be available within the timeframe shown in the financial plan.

The plan of action should provide information on the actions that will be taken to obtain the new funding, such as, how the support of the public, elected officials, business community, and special interests will be obtained, e.g., comprehensive and continuing program to make the public and others aware of the need for new revenue sources and the consequences of not providing them. Past experience (including historical data) with obtaining this type of funding, e.g., success in obtaining legislative and/or voter approval for new bond issues, tax increases, special appropriations of funds, etc., should be included. Where efforts are already underway to obtain a new revenue source, information such as the amount of support (and/or opposition) for the measure(s) by the public, elected officials, business community, and special interests should be provided.

For innovative financing techniques, the plan of action should identify the specific actions that are necessary to implement these techniques including the responsible parties, steps (including the timetable) to be taken to complete the actions and extent of commitment by the responsible parties for the necessary actions.

The financial plan will be a part of the plan or TIP and will be reviewed through the public involvement process. The following are examples of specific cases where new funding sources should not generally be considered to be "reasonably available": (1) Past efforts to enact new revenue sources have generally not been successful; (2) the extent of current support by public, elected officials, business community and/or special interests indicates passage of a pending funding measure is doubtful; or (3) no specific plan of action for securing the funding source and/or other information that demonstrates a strong likelihood that funds will be secured is available.

Comment: States must provide MPOs their best estimates of Federal funding that will be available to the metropolitan area in order for MPOs to develop financially constrained TIPs. Once a State has advised the MPO of the amount of Federal funds that will be available to the area, it should not be able to move funds out of the area because there is disagreement between the MPO and the State over which projects to include in the TIP.

Response: FHWA and FTA agree that States must provide MPOs with their best estimate of the Federal funds that will be available for use in metropolitan areas so financially constrained TIPs can be developed. This is not an easy task for the States since the States must decide how they will allocate the funds among all of the competing metropolitan and nonmetropolitan interests throughout the State. Unless the State suballocates all Federal funds to the various jurisdictions within the State (FHWA and FTA discourage suballocation), it needs to have a process for obtaining information on funding needs for the metropolitan areas as well as the nonmetropolitan areas of the State to provide a basis for deciding how to distribute the Federal funds. If a State chooses, it can utilize its process for developing its statewide transportation improvement program to obtain information on funding needs

and to determine how to distribute its funds.

The ISTEA specifically provides for the MPO to develop the TIP in cooperation with the State and the transit operator, and for the TIP to be approved by both the MPO and Governor. Through the cooperative TIP development process and the joint approval requirement, disagreements over which projects to include in the TIP and their priority should be resolved. While we would hope that through negotiations a mutually acceptable decision on the projects to include in the TIP would be reached, it is recognized that this may not always be the case. Where agreement cannot be reached on the projects to be included in the TIP, the statutory provisions do not prohibit a State from using the Federal funds (other than STP funds allocated to urbanized areas with a population over 200,000) in some other part of the State.

Comment: The TIP should remain as a program of projects not a management tool for monitoring progress.

Response: The requirements for financially constraining and prioritizing the TIP, public comment and, in nonattainment areas, the conformity process and need to give priority consideration for TCMs, have functionally transformed the TIP. The TIP no longer serves as an interim step toward subsequent actions which actually determine what projects are funded. The TIP must serve as the mechanism that focuses and prioritizes the projects, establishes the relationship among projects and notifies the public of project status for the metropolitan area. Further, it should reflect the changes that have taken place in the concept of programming. TIP programming functionally shifts from assembling a list of projects that may be able to proceed to comprehensively managing the process of project advancement in relation to other transportation and transportation related activities that impact transportation system performance. Hence, the information requirements established for the TIP reflect this change. For example, projects from previously conforming TIPs must be tracked, TCM project priority must be assured, and SOV limitation requirements must be met.

Some relief from the level of required detail is provided through grouping of projects and prioritizing on an annual basis. This reduces the burden by limiting the amount of detail required for smaller projects. Additionally, by highlighting projects that serve multiple purposes, e.g., mobility strategies aimed at compensating for job access, the appropriate coordination can be achieved before projects are implemented and burdens reduced through cooperative relationships with other organizations.

Comment: The TIP should be a six-year, financially constrained program of projects.

Response: The ISTEA requires the TIP to be a minimum of three years and be updated at least biennially. It permits longer TIPs but the requirements for annual financial constraint and prioritization apply; that is, the projects must be grouped by year by funding source and each year of the TIP must be financially constrained to the resources reasonably available.

Comment: Overprogramming should be permitted and projects should be able to move within TIP duration with TIP amendments.

Response: Overprogramming is inconsistent with legislative requirements for a financially constrained TIP. Further, it is unnecessary since the project selection procedures can be used to advance a project from years 2 and 3 of the TIP if the schedule for a project included in year 1 slips. This does not require a TIP amendment.

Comment: Projects in the TIP should bear a direct relationship to implementation of the transportation plan.

Response: Capacity expanding improvements must be specifically identified in the plan. Minor projects such as those that may be grouped in the TIP do not have to be individually identified, but the plan must clearly indicate the resources that will be devoted to such projects by type, functional classifications and jurisdiction.

Comment: MPOs should not distribute STP-funds on the basis of predetermined formulas.

Response: Within a metropolitan area, suballocation of STP funds allocated to urbanized areas over 200,000 in population is not permitted under the final rule unless it can be demonstrated to be based on factors considered part of the planning process.

Comment: Clarify the relationship between the metropolitan and State TIP.

Response: Once the metropolitan TIP has been approved by the MPO and the Governor, and in nonattainment and maintenance areas found to conform by the FHWA and the FTA, it is included in the statewide TIP either verbatim or by reference.

Comment: If TIP fails to prioritize freight projects an MPO should be considered in violation of the ISTEA objectives.

Response: With the exception of TCMs in nonattainment areas, the ISTEA does not establish a priority for other types of projects. It relies instead on the MPO, in cooperation with the State and the transit operator, to make choices that contribute to the overall performance of the local transportation system within the broad parameters of the Act.

Comment: How are projects serving Federal lands and funded under the ISTEA included in the metropolitan TIP?

Response: The sponsoring agency should work with the MPO to include the project in the metropolitan plan and TIP.

Comment: Operations and maintenance is the responsibility of operating agencies not the MPO.

Response: The MPO, in cooperation with the State and the transit operator, is responsible for developing a financial plan that demonstrates that the resources are reasonably available to implement the plan and the TIP. To do this, the financial plan must demonstrate also that operating agencies have the capacity to finance the operations and maintenance of facilities. This will require a close working relationship between the MPO and all agencies involved in the metropolitan transportation system.

Comment: Add the following wording to the final rule: "Nothing in this rule may be construed as imposing an obligation upon a private party to disclose proprietary business information involuntarily or as subjecting any MPO to any sanction for not obtaining information from private parties which those private parties do not wish to disclose voluntarily."

Response: The FHWA and the FTA agree with the principle behind the proposed revision. However, they could not determine a basis on which this might become an immediate issue in the planning process and have chosen not to include the wording as proposed. Consideration will be given to issuing guidance on this matter if it should become an issue.

Section 450.326 Transportation Improvement Program: Modification

Approximately 20 comments were received on this section.

Comment: Clarify when a TIP amendment is necessary.

Response: An amendment is required to add or delete a project from the TIP. An amendment is not required if funding sources change unless that

forces addition or deletion of other projects.

Comment: TIP amendments should be made quarterly.

Response: TIPS can be amended at any time. However, in nonattainment areas this would require a new conformity determination (unless the amendment includes only exempt projects provided in 40 CFR 51) and in all areas appropriate public involvement (unless the amendment only includes minor projects which may be grouped under the requirements of 23 CFR § 450.324). The FHWA and the FTA have provided a mechanism that permits MPOs to move projects from year two and three of a TIP to year one without amending the TIP.

Comment: Are approved amendments automatically included in the Statewide TIP?

Response: A single metropolitan TIP/STIP amendment process may be used in a given metropolitan planning area as long as it utilizes the metropolitan public involvement procedures, providing the change only impacts on the metropolitan area. Where the metropolitan TIP amendment affects other portions of the State, the agreed upon STIP amendment procedures must be utilized, in addition to the metropolitan TIP amendment process.

Comment: Which projects do not require public comment when changes are made to the TIP?

Response: The regulations do not require public comment on TIP amendments involving minor projects that may be grouped (see § 450.324(i)). The MPO establishes its public involvement process in compliance with § 450.316(c). In their public involvement procedures, the MPO could specify which types of TIP amendments will not be subject to the public involvement procedures. All actions on the TIP must be taken in accordance with an area's public involvement program.

Section 450.328 Transportation Improvement Program: Relationship to Statewide TIP

Two minor changes were made to the language in this section. A clarification was provided to indicate that when the Governor has approved the metropolitan TIP, it is included directly, or by reference, in the statewide TIP (which subsequently must be approved by the FHWA and the FTA) except in nonattainment and maintenance areas where it must be found to conform before it is included. Notification of approval of the TIP by the Governor must be sent to the MPO and Federal land highway project sponsors and Indian tribes where they have projects proposed for inclusion on the TIP.

About fifteen comments were received on this section of the rule.

Comment: Provide for statewide conformity process as an alternative to metropolitan process.

Response: The conformity procedure is developed according to legislative requirements in the CAA and applies to individual nonattainment and maintenance areas only. Conformity with the SIP for these individual areas must be demonstrated.

Comment: What happens if the MPO TIP is approved but the State TIP is not approved?

Response: Federal approval action is on the STIP. If the STIP is not approved, projects cannot be implemented with Federal funding except for emergency relief or operating assistance approved by the FHWA and FTA on an individual basis. A partial approval of the State TIP is possible which could mean that a partial STIP, including this approved TIP could be approved. Most partial STIP approvals are likely to involve a situation where the Governor and/or MPO had not approved the metropolitan TIP. In such cases, Federal funds would not be approved for projects in that area, but the rest of the State could be eligible for funding if the rest of the STIP is approved.

Section 450.330 Transportation Improvement Program: Action Required by FHWA/FTA

Just under ten comments were received on this section.

Comment: Modify paragraph (b) to give priority to TCMs funded under title 23, U.S.C.

Response: This requirement is already included under §§ 450.322 and 450.324.

Comment: Require the FHWA to be the lead agency for findings and approvals with the FTA concurrence within thirty days.

Response: Approvals and findings will be made jointly by both agencies as required in the delegation of the Secretary of U.S. DOT.

Comment: Include language to reflect the authority of the Secretary of the U.S. Department of Interior as provided in 23 U.S.C. 204.

Response: This has been accomplished in §§ 450.324 and 450.332.

Comment: Conformity determinations by both the MPO and the U.S. DOT must be promulgated as rules under the Administrative Procedure Act.

Response: The FHWA and the FTA do not believe that a conformity determination is a rule under the Administrative Procedure Act. A conformity determination is simply one of many conditions on grants-in-aid and creates no commitment to a grant. Further, a conformity determination by an MPO is not subject to the Administrative Procedure Act because an MPO is created under State and local law and its plans and TIPs represent local policy and decisionmaking.

Section 450.332 Project Selection for Implementation

Comment: Remove transit operator from this section.

Response: The role of the transit operator is central to an effective collaboration in the development of a metropolitan surface transportation program. The transit operators have been included in this section in recognition of their status in receiving Federal Transit Act assistance and to provide them with an effective voice in the process of programming.

Comment: Project selection should include the State historic preservation officer, a certified local government representative, other historic preservation officials and Indian tribal representatives.

Response: The rule reflects the project selection requirements in the ISTEA which do not require historic preservation officials to be involved. The project selection procedures for Federal lands highways include Indian representation and this has been clarified in § 450.332. Organizations not directly involved in project selection have input through the public involvement processes for the TIP and STIP.

Comment: Define project selection.

Response: Project selection is a process for advancing projects to implementation from the approved TIP, either in the first year as an "agreed to" list or in later years as a means of moving projects from year to year. Selection is essentially a joint activity involving the State, MPO and transit operator since all agencies are affected by the actions of one another. Hence, language modifications have been made to this section to clarify and reflect this mutual responsibility. Generally, the rule provides that the first year of the approved TIP constitutes a list of projects for project selection purposes which may, thus, be advanced by the implementing agency without further action by the MPO. Project selection procedures also provide a mechanism for modifying the annual priority of projects without amending the TIP.

The selection procedures specified in the rule can be jointly modified through cooperative agreement of the MPO, State and transit operator.

Comment: What about projects that fall on or cross the boundary of two MPOs?

Response: The two MPOs would have to agree on the procedures to be used, but as a minimum the appropriate portions of the project would have to be included in the appropriate transportation plan. Both MPOs would need to include the project in their respective TIPs and select the project for further advancement.

Section 450.334 Metropolitan Transportation Planning Process: Certification

Approximately 15 comments were received on the certification issue beyond those submitted in response to the supplemental questions.

Comment: More certification requirements for TMAs should be provided in final rule.

Response: The majority of the comments received supported the certification approach established in the proposed rule, although some sentiment for additional regulatory guidance was expressed. The FHWA and the FTA have chosen to rely on the proposed approach and have adopted it for the final rule.

Section 450.336 Phase-in of New Requirements

The topic receiving the most attention in the comments was the deadline of October 1, 1993, for updating plans. The FHWA and the FTA have reviewed the matter and significantly adjusted the deadlines through interim guidance. In nonattainment areas requiring TCMs as part of their November, 1993, SIPs, the October 1, 1993, still applies. However, since the rule will not be published until after October 1, 1993, this issue was excluded from consideration in the development of the final rule. Interim guidance was issued on September 22, 1993.

Rulemaking Analyses and Notices

Executive Order 12866 (Federal Regulation) and DOT Regulatory Policies and Procedures

The FHWA and the FTA have determined that this rulemaking is a significant regulatory action within the meaning of Executive Order 12866 and under Department of Transportation regulatory policies and procedures because of substantial State, local government, congressional and public interest. These interests involve receipt of Federal financial support for transportation investments, appropriate compliance with statutory requirements, and balancing of transportation mobility and environmental goals. The FHWA and the FTA anticipate that the economic impact of this rulemaking will be minimal. Most of the costs associated with these final rules are attributable to the provisions of the ISTEA, the Clean Air Act (as amended), and other statutes including earlier highway acts.

These rules revise existing urban planning regulations of the FHWA and the FTA and conform those regulations to the requirements of the ISTEA. While they incorporate new requirements to govern statewide transportation planning processes as directed by statute, States have been carrying out statewide transportation planning activities, including data collection, with Title 23 and FTA planning and research funds for many years. In addition, these rules support the U.S. EPA's proposed transportation conformity rule which would increase requirements for MPOs to perform regional transportation and emissions modelling and to document the regional air quality impacts of transportation plans and programs.

For the reasons set forth here, a full regulatory evaluation has not been prepared. However, for both this rule and the related joint FHWA/FA rule on management and monitoring systems, the agencies will be placing in the docket a summary of anticipated impacts, particularly the costs associated with modified data collection activities. The impacts on the States and MPOs result mainly from modified data collection and analysis activities that may be necessary to implement the ISTEA, planning, management systems, and traffic monitoring requirements under this rule and the forthcoming rule on management and monitoring systems. In general, the FHWA and the FTA have limited regulatory requirements to those necessary to comply with the ISTEA and CAAA requirements in order to give States and MPOs the flexibility to tailor their processes to address their individual situations and to minimize resources used for data collection and analysis. While there may be additional costs to some States and MPOs, ISTEA significantly increased the mandatory set-aside in Federal funds that must be used for transportation planning, and in addition, gives the States and MPOs the flexibility to use Federal capital funds for transportation planning if they so desire.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354; 5 U.S.C., 601–612), the FHWA and the FTA have evaluated the effects of these rules on small entities such as local governments and businesses. The metropolitan planning regulation modifies existing requirements for urban transportation planning and does not create a new activity. The statewide planning regulations require new planning procedures for States. The modifications of the existing planning requirements are substantially dictated by the provisions of the ISTEA and the Clean Air Act Amendments of 1990. No comments were submitted on the economic consequences of this rule or its impact on small entities in response to the notice of proposed rulemaking or the public meetings. The FHWA and the FTA believe that the overall compliance burden on public entities implementing the provisions of the regulation will not be substantially greater than that associated with simply implementing legislative requirements. Since many States already conducted transportation planning activities at the State level, the FHWA and the FTA believe that these regulations will not create a significant new burden. Based on this evaluation, the FHWA and the FTA certify that this rulemaking would not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

These actions have been analyzed in accordance with the principles and criteria contained in Executive Order 12612. The ISTEA authorizes the Secretary to promulgate rules to implement the provisions of the ISTEA regarding metropolitan and statewide planning. The rules recognize the role of State and local governments in implementing the metropolitan and statewide planning provisions of the ISTEA, including the increased discretionary authority allocated to them under the Act. Accordingly, it is certified that the policies contained in this document have been assessed in light of the principles, criteria, and requirements of the Federalism Executive Order, as well as the applicable provisions of the ISTEA. It has been determined that these rules do not have sufficient Federalism implications to warrant a full Federalism Assessment under the principles and criteria contained in Executive Order 12612.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Numbers 20.205, Highway Planning and Construction; 20.500, Federal Transit Capital Improvement Grants; 20.505, Federal

Transit Technical Studies Grants; 20.507, Federal Transit Capital and Operating Assistance Formula Grants. The regulations implementing Executive Order 12372 regarding intergovernmental consultation in Federal programs and activities apply to these programs.

Paperwork Reduction Act

The information collection, reporting and recordkeeping provisions in these rules has been reviewed for compliance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. The creation and submission of required reports and documents have been constrained to those specifically required by the ISTEA or essential to the performance of the FHWA and the FTA's findings and approvals. The reporting requirements for metropolitan UPWPs, transportation plans and programs were approved by the Office of Management and Budget under OMB control number 2132–0529. The reporting requirements for statewide transportation plans and programs were constrained to those specifically required by the ISTEA or essential to the performance of the FHWA and the FTA's findings and approvals. OMB approval of the information collection requirements contained in this rule has been requested. These requirements will become effective once they have been approved and a notice to that approval will be provided in the Federal Register.

National Environmental Policy Act

The FHWA and the FTA have analyzed these actions for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and have determined that these actions would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

23 CFR Part 450

Grant programs—Transportation, Highways and roads, Mass Transportation, Metropolitan planning, Statewide planning, Project selection, and Metropolitan transportation improvement program and Statewide transportation improvement program, Reporting and recordkeeping requirements.

49 CFR Part 613

Grant programs—Transportation, Mass transportation.

Issued on: October 22, 1993.

Rodney E. Slater,

Federal Highway Administration.

Gordon J. Linton,

Federal Transit Administration.

In consideration of the foregoing, the Federal Highway Administration is amending title 23, Code of Federal Regulations, Part 450, and the Federal Transit Administration is amending title 49, Code of Federal Regulations, Part 613 as set forth below.

23 CFR Chapter I

1. In Chapter I of title 23 CFR, part 450 is revised to read as follows:

Subchapter E—Planning

PART 450—PLANNING ASSISTANCE AND STANDARDS

Subpart A—Planning Definitions

Subpart B—Statewide Transportation Planning

Subpart C—Metropolitan Transportation Planning and Programming

Authority: 23 U.S.C. 104(f), 134, 135, 217, and 315; 42 U.S.C. 7410 et seq; 49 U.S.C. app. 1602, 1604, 1607, and 1607a; 49 CFR 1.48(b) and 1.51.

Subpart A—Planning Definitions

§ 450.100 Purpose.

The purpose of this subpart is to provide definitions for terms used in this part which go beyond those terms defined in 23 U.S.C. 101(a).

§ 450.102 Applicability.

The definitions in this subpart are applicable to this part, except as otherwise provided.

§ 450.104 Definitions.

Except as defined in this subpart, terms defined in 23 U.S.C 101(a) are used in this part as so defined.

Consultation means that one party confers with another identified party and, prior to taking action(s), considers that party's views.

Cooperation means that the parties involved in carrying out the planning, programming and management systems processes work together to achieve a common goal or objective.

Coordination means the comparison of the transportation plans, programs, and schedules of one agency with related plans, programs and schedules of other agencies or entities with legal standing, and adjustment of plans, programs and schedules to achieve general consistency .

Governor means the Governor of any one of the fifty States, or Puerto Rico,

and includes the Mayor of the District of Columbia.

Maintenance area means any geographic region of the United States designated nonattainment pursuant to the CAA Amendments of 1990 (Section 102(e)), 42 U.S.C. 7410 et seq., and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan under section 175A of the Clean Air Act as amended (CAA), 42 U.S.C. 7410 et seq.

Major metropolitan transportation investment means a high-type highway or transit improvement of substantial cost that is expected to have a significant effect on capacity, traffic flow, level of service, or mode share at the transportation corridor or subarea scale. Consultation among the MPO, State department of transportation, transit operator, the FHWA and the FTA may lead to the designation of other proposed improvements as major investments beyond the examples listed below. Examples of such investments could generally include but are not limited to: Construction of a new partially controlled access (access allowed only for public roads) principal arterial, extension of an existing partially controlled access (access allowed only for public roads) principal arterial by one or more miles, capacity expansion of a partially controlled access (access provided only for public roads) principal arterial by at least one lane through widening or an equivalent increase in capacity produced by access control or technological improvement, construction or extension of a high-occupancy vehicle (HOV) facility or a fixed guideway transit facility by one or more miles, the addition of lanes or tracks to an existing fixed guideway transit facility for a distance of one or more miles, or a substantial increase in transit service on a fixed guideway facility. For this purpose, a fixed guideway refers to any public transportation facility which utilizes and occupies a designated right-of-way or rails including (but not limited to) rapid rail, light rail, commuter rail, busways, automated guideway transit, and people movers. Projects that generally are not considered to be major transportation investments include but are not limited to: Highway projects on principal arterials where access is not limited to public roads only, small scale improvements or extensions (normally less than one mile) on principal arterials with the primary goal of relieving localized safety or operational difficulties, resurfacing, replacement, or rehabilitation of existing principal arterials and equipment, highway projects not located on a principal arterial, and changes in transit routing and scheduling.

Management system means a systematic process, designed to assist decisionmakers in selecting cost effective strategies/actions to improve the efficiency and safety of, and protect the investment in the nation's infrastructure. A management system includes: identification of performance measures; data collection and analysis; determination of needs; evaluation, and selection of appropriate strategies/actions to address the needs; and evaluation of the effectiveness of the implemented strategies/actions.

Metropolitan planning area means the geographic area in which the metropolitan transportation planning process required by 23 U.S.C. 134 and section 8 of the Federal Transit Act must be carried out.

Metropolitan planning organization (MPO) means the forum for cooperative transportation decisionmaking for the metropolitan planning area. MPOs designated prior to the promulgation of this regulation remain in effect until redesignated in accordance with § 450.106 and nothing in this part is intended to require or encourage such redesignation.

Metropolitan transportation plan means the official intermodal transportation plan that is developed and adopted through the metropolitan transportation planning process for the metropolitan planning area.

Nonattainment area means any geographic region of the United States that the Environmental Protection Agency (EPA) has designated as a nonattainment area for a transportation related pollutant(s) for which a National Ambient Air Quality Standard (NAAQS) exists.

Regionally significant project means a project (other than projects that may be grouped in the STIP/TIP pursuant to § 450.216 and § 450.324) that is on a facility which serves regional transportation needs (such as access to and from the area outside of the region, major activity centers in the region, major planned developments such as new retail malls, sports complexes, etc., or transportation terminals as well as most terminals themselves) and would normally be included in the modeling of a metropolitan area's transportation network, including, as a minimum, all principal arterial highways and all fixed guideway transit facilities that offer a significant alternative to regional highway travel.

State means any one of the fifty States, the District of Columbia, or Puerto Rico.

State Implementation Plan (SIP) means the portion (or portions) of an applicable implementation plan approved or promulgated, or the most recent revision thereof, under sections 110, 301(d) and 175A of the Clean Air Act (42 U.S.C. 7409, 7601, and 7505a).

Statewide transportation improvement program (STIP) means a staged, multiyear, statewide, intermodal program of transportation projects which is consistent with the Statewide transportation plan and planning processes and metropolitan plans, TIPs and processes.

Statewide transportation plan means the official statewide, intermodal transportation plan that is developed through the statewide transportation planning process.

Transportation improvement program (TIP) means a staged, multiyear, intermodal program of transportation projects which is consistent with the metropolitan transportation plan.

Transportation Management Area (TMA) means an urbanized area with a population over 200,000 (as determined by the latest decennial census) or other area when TMA designation is requested by the Governor and the MPO (or affected local officials), and officially designated by the Administrators of the FHWA and the FTA. The TMA designation applies to the entire metropolitan planning area(s).

Subpart B—Statewide Transportation Planning

§ 450.200 Purpose.

The purpose of this subpart is to implement 23 U.S.C. 135, which requires each State to carry out a continuing, comprehensive, and intermodal statewide transportation planning process, including the development of a statewide transportation plan and transportation improvement program, that facilitates the efficient, economic movement of people and goods in all areas of the State, including those areas subject to the requirements of 23 U.S.C 134.

§ 450.202 Applicability.

The requirements of this subpart are applicable to States and any other agencies/organizations which are responsible for satisfying these requirements.

§ 450.204 Definitions.

Except as otherwise provided in subpart A of this part, terms defined in 23 U.S.C. 101(a) are used in this part as so defined.

§ 450.206 Statewide transportation planning process: General requirements.

(a) The statewide transportation planning process shall include, as a minimum:

(1) Data collection and analysis;

(2) Consideration of factors contained in § 450.208;

(3) Coordination of activities as noted in § 450.210;

(4) Development of a statewide transportation plan that considers a range of transportation options designed to meet the transportation needs (both passenger and freight) of the state including all modes and their connections; and

(5) Development of a statewide transportation improvement program (STIP).

(b) The statewide transportation planning process shall be carried out in coordination with the metropolitan planning process required by subpart C of this part.

§ 450.208 Statewide transportation planning process: Factors.

(a) Each State shall, at a minimum, explicitly consider, analyze as appropriate and reflect in planning process products the following factors in conducting its continuing statewide transportation planning process:

(1) The transportation needs (strategies and other results) identified through the management systems required by 23 U.S.C. 303;

(2) Any Federal, State, or local energy use goals, objectives, programs, or requirements;

(3) Strategies for incorporating bicycle transportation facilities and pedestrian walkways in appropriate projects throughout the State;

(4) International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation and scenic areas, monuments and historic sites, and military installations;

(5) The transportation needs of nonmetropolitan areas (areas outside of MPO planning boundaries) through a process that includes consultation with local elected officials with jurisdiction over transportation;

(6) Any metropolitan area plan developed pursuant to 23 U.S.C. 134 and section 8 of the Federal Transit Act, 49 U.S.C. app. 1607;

(7) Connectivity between metropolitan planning areas within the State and with metropolitan planning areas in other States;

(8) Recreational travel and tourism;

(9) Any State plan developed pursuant to the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq. (and in addition to plans pursuant to the Coastal Zone Management Act);

(10) Transportation system management and investment strategies designed to make the most efficient use of existing transportation facilities (including consideration of all transportation modes);

(11) The overall social, economic, energy, and environmental effects of transportation decisions (including housing and community development effects and effects on the human, natural and manmade environments);

(12) Methods to reduce traffic congestion and to prevent traffic congestion from developing in areas where it does not yet occur, including methods which reduce motor vehicle travel, particularly single-occupant motor vehicle travel;

(13) Methods to expand and enhance appropriate transit services and to increase the use of such services (including commuter rail);

(14) The effect of transportation decisions on land use and land development, including the need for consistency between transportation decisionmaking and the provisions of all applicable short-range and long-range land use and development plans (analyses should include projections of economic, demographic, environmental protection, growth management and land use activities consistent with development goals and transportation demand projections);

(15) Strategies for identifying and implementing transportation enhancements where appropriate throughout the State;

(16) The use of innovative mechanisms for financing projects, including value capture pricing, tolls, and congestion pricing;

(17) Preservation of rights-of-way for construction of future transportation projects, including identification of unused rights-of-way which may be needed for future transportation corridors, identification of those corridors for which action is most needed to prevent destruction or loss (including strategies for preventing loss of rights-of-way);

(18) Long-range needs of the State transportation system for movement of persons and goods;

(19) Methods to enhance the efficient movement of commercial motor vehicles;

(20) The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavements;

(21) The coordination of transportation plans and programs developed for metropolitan planning areas of the State under 23 U.S.C. 134 and section 8 of the Federal Transit Act with the statewide transportation plans and programs developed under this subpart, and the reconciliation of such plans and programs as necessary to ensure connectivity within transportation systems;

(22) Investment strategies to improve adjoining State and local roads that support rural economic growth and tourism development, Federal agency renewable resources management, and multipurpose land management practices, including recreation development; and

(23) The concerns of Indian tribal governments having jurisdiction over lands within the boundaries of the State.

(b) The degree of consideration and analysis of the factors should be based on the scale and complexity of many issues, including transportation problems, land use, employment, economic development, environmental and housing and community development objectives, the extent of overlap between factors and other circumstances statewide or in subareas within the State.

§ 450.210 Coordination.

(a) In addition to the coordination required under § 450.208(a)(21), in carrying out the requirements of this subpart, each State, in cooperation with participating organizations (such as MPOs, Indian tribal governments, environmental, resource and permit agencies, public transit operators) shall, to the extent appropriate, provide for a fully coordinated process including coordination of the following:

(1) Data collection, data analysis and evaluation of alternatives for a transit, highway, bikeway, scenic byway, recreational trail, or pedestrian program with any such activities for the other programs;

(2) Plans, such as the statewide transportation plan required under § 450.214, with programs and priorities for transportation projects, such as the STIP;

(3) Data analysis used in development of plans and programs, (for example, information resulting from traffic data analysis, data and plans regarding employment and housing availability, data and plans regarding land use control and community development) with land use projections, with data analysis on issues that are part of public involvement relating to project implementation, and with data analyses done as part of the establishment and maintenance of management systems developed in response to 23 U.S.C. 303;

(4) Consideration of intermodal facilities with land use planning, including land use activities carried out by local, regional, and multistate agencies;

(5) Transportation planning carried out by the State with transportation planning carried out by Indian tribal governments, Federal agencies and local governments, MPOs, large-scale public and private transportation providers, operators of major intermodal terminals and multistate businesses;

(6) Transportation planning carried out by the State with significant transportation-related actions carried out by other agencies for recreation, tourism, and economic development and for the operation of airports, ports, rail terminals and other intermodal transportation facilities;

(7) Public involvement carried out for the statewide planning process with public involvement carried out for the metropolitan planning process;

(8) Public involvement carried out for planning with public involvement carried out for project development;

(9) Transportation planning carried out by the State with Federal, State, and local environmental resource planning that substantially affects transportation actions;

(10) Transportation planning with financial planning;

(11) Transportation planning with analysis of potential corridors for preservation;

(12) Transportation planning with analysis of social, economic, employment, energy, environmental, and housing and community development effects of transportation actions; and

(13) Transportation planning carried out by the State to meet the requirements of 23 U.S.C. 135 with transportation planning to meet other Federal requirements including the State rail plan.

(b) The degree of coordination should be based on the scale and complexity of many issues including transportation problems, land use, employment, economic, environmental, and housing and community development objectives, and other circumstances statewide or in subareas within the State.

§ 450.212 Public involvement.

(a) Public involvement processes shall be proactive and provide complete information, timely public notice, full public access to key decisions, and opportunities for early and continuing involvement. The processes shall provide for:

(1) Early and continuing public involvement opportunities throughout the transportation planning and programming process;

(2) Timely information about transportation issues and processes to citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, other interested parties and segments of the community affected by transportation plans, programs, and projects;

(3) Reasonable public access to technical and policy information used in the development of the plan and STIP;

(4) Adequate public notice of public involvement activities and time for public review and comment at key decision points, including but not limited to action on the plan and STIP;

(5) A process for demonstrating explicit consideration and response to public input during the planning and program development process;

(6) A process for seeking out and considering the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households which may face challenges accessing employment and other amenities;

(7) Periodic review of the effectiveness of the public involvement process to ensure that the process provides full and open access to all and revision of the process as necessary.

(b) Public involvement activities carried out in a metropolitan area in response to metropolitan planning requirements in § 450.322(c) or § 450.324(c) may by agreement of the State and the MPO satisfy the requirements of this section.

(c) During initial development and major revisions of the statewide transportation plan required under § 450.214, the State shall provide citizens, affected public agencies and jurisdictions, employee representatives of transportation and other affected agencies, private and public providers of transportation, and other interested parties a reasonable opportunity to comment on the proposed plan. The proposed plan shall be published, with reasonable notification of its availability, or otherwise made readily available for public review and comment. Likewise, the official statewide transportation plan (see § 450.214(d)) shall be published, with reasonable notification of its availability, or otherwise made readily available for public information.

(d) During development and major revision of the statewide transportation improvement program required under § 450.216, the Governor shall provide citizens, affected public agencies and jurisdictions, employee representatives of transportation or other affected agencies, private providers of transportation, and other interested parties, a reasonable opportunity for review and comment on the proposed program. The proposed program shall be published, with reasonable notification of its availability, or otherwise made readily available for public review and comment. The approved program (see § 450.220(c)) if it differs significantly from the proposed program, shall be published, with reasonable notification of its availability, or otherwise made readily available for public information.

(e) The time provided for public review and comment for minor revisions to the statewide transportation plan or statewide transportation improvement program will be determined by the State and local officials based on the complexity of the revisions.

(f) The State shall, as appropriate, provide for public comment on existing and proposed procedures for public involvement throughout the statewide transportation planning and programming process. As a minimum, the State shall publish procedures and allow 45 days for public review and written comment before the procedures and any major revisions to existing procedures are adopted.

(g) The public involvement processes will be considered by the FHWA and the FTA as they make the planning finding required in § 450.220(b) to assure that full and open access is provided to the decision making process.

§ 450.214 Statewide transportation plan.

(a) The State shall develop a statewide transportation plan for all areas of the State.

(b) The plan shall:

(1) Be intermodal (including consideration and provision, as applicable, of elements and connections of and between rail, commercial motor vehicle, waterway, and aviation facilities, particularly with respect to intercity travel) and statewide in scope in order to facilitate the efficient movement of people and goods;

(2) Be reasonably consistent in time horizon among its elements, but cover a period of at least 20 years;

(3) Contain, as an element, a plan for bicycle transportation, pedestrian walkways and trails which is appropriately interconnected with other modes;

(4) Be coordinated with the metropolitan transportation plans required under 23 U.S.C. 134;

(5) Reference, summarize or contain any applicable short range planning studies, strategic planning and/or policy studies, transportation need studies, management system reports and any statements of policies, goals and objectives regarding issues such as transportation, economic development, housing, social and environmental effects, energy, etc., that were significant to development of the plan; and

(6) Reference, summarize or contain information on the availability of financial and other resources needed to carry out the plan.

(c) In developing the plan, the State shall:

(1) Cooperate with the MPOs on the portions of the plan affecting metropolitan planning areas;

(2) Cooperate with the Indian tribal government and the Secretary of the Interior on the portions of the plan affecting areas of the State under the jurisdiction of an Indian tribal government;

(3) Provide for public involvement as required under § 450.212;

(4) Provide for substantive consideration and analysis as appropriate of specified factors as required under § 450.208; and

(5) Provide for coordination as required under § 450.210.

(d) The State shall provide and carryout a mechanism to establish the document, or documents, comprising the plan as the official statewide transportation plan.

(e) The plan shall be continually evaluated and periodically updated as appropriate using the procedures in this section for development and establishment of the plan.

§ 450.216 Statewide transportation improvement program (STIP).

(a) Each State shall develop a statewide transportation improvement program for all areas of the State. In case of difficulties in developing the STIP portion for a particular area, e.g., metropolitan area, Indian tribal lands, etc., a partial STIP covering the rest of the State may be developed. The portion of the STIP in a metropolitan planning area (the metropolitan TIP developed pursuant to subpart C of this part) shall be developed in cooperation with the MPO. To assist this process, the State will need to provide MPOs with estimates of available Federal and State funds which the MPO can utilize in developing the metropolitan TIP. Metropolitan planning area TIPs shall be included without modification in the STIP, directly or by reference, once approved by the MPO and the Governor and after needed conformity findings are made. Metropolitan TIPs in nonattainment and maintenance areas are subject to the FHWA and the FTA conformity findings before their inclusion in the STIP. In nonattainment and maintenance areas outside metropolitan planning areas, Federal findings of conformity must be made prior to placing projects in the STIP. The State shall notify the appropriate MPO, local jurisdictions, Federal land agency, Indian tribal government, etc. when a TIP including projects under the jurisdiction of the agency has been included in the STIP. All title 23 and Federal Transit Act fund recipients will share information as projects in the STIP are implemented. The Governor shall provide for public involvement in development of the STIP as required by § 450.212. In addition, the STIP shall:

(1) Include a list of priority transportation projects proposed to be carried out in the first 3 years of the STIP. Since each TIP is approved by the Governor, the TIP priorities will dictate STIP priorities for each individual metropolitan area. As a minimum, the lists shall group the projects that are to be undertaken in each of the years, e.g., year 1, year 2, year 3;

(2) Cover a period of not less than 3 years, but may at State discretion cover a longer period. If the STIP covers more than 3 years, the projects in the additional years will be considered by the FHWA and the FTA only as informational;

(3) Contain only projects consistent with the statewide plan developed under § 450.214;

(4) In nonattainment and maintenance areas, contain only transportation projects found to conform, or from programs that conform, to the requirements contained in 40 CFR part 51;

(5) Be financially constrained by year and include sufficient financial information to demonstrate which projects are to be implemented using current revenues and which projects are to be implemented using proposed revenue sources while the system as a whole is being adequately operated and maintained. In nonattainment and maintenance areas, projects included in the first two years of the current STIP/TIP shall be limited to those for which funds are available or committed. In the case of proposed funding sources, strategies for ensuring their availability shall be identified;

(6) Contain all capital and non-capital transportation projects (including transportation enhancements, Federal lands highways projects, trails projects, pedestrian walkways, and bicycle transportation facilities), or identified phases of transportation projects, proposed for funding under the Federal Transit Act (49 U.S.C. app. 1602, 1607a, 1612 and 1614) and/or title 23, U.S.C. excluding:

(i) Safety projects funded under section 402 of the Surface Transportation Assistance Act of 1982, as amended (49 U.S.C. app. 2302);

(ii) IVHS planning grants funded under section 6055(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102–240, 105 Stat. 1914);

(iii) Transit planning grants funded under section 8 or 26 of the Federal Transit Act (49 U.S.C. app. 1607 and 1622);

(iv) Metropolitan planning projects funded under 23 U.S.C. 104(f);

(v) State planning and research projects funded under 23 U.S.C. 307(c)(1) (except those funded with NHS, STP and minimum allocation (MA) funds that the State and MPO for a metropolitan area agree should be in the TIP and consequently must be in the STIP); and

(vi) Emergency relief projects (except those involving substantial functional, locational or capacity changes);

(7) Contain all regionally significant transportation projects requiring an action by the FHWA or the FTA whether or not the projects are to be funded with title 23, U.S.C. or Federal Transit Act funds, e.g., addition of an interchange to the Interstate System with State, local and/or private funds, demonstration projects not funded under title 23, U.S.C., or the Federal Transit Act. (The STIP should, for information purposes, include all regionally significant transportation projects proposed to be funded with Federal funds other than those administered by the FHWA or the FTA. It should also include, for information purposes, if appropriate and cited in any TIPs, all regionally significant projects, to be funded with non-Federal funds);

(8) Include for each project the following:

(i) Sufficient descriptive material (i.e., type of work, termini, length, etc.) to identify the project or phase;

(ii) Estimated total cost;

(iii) The amount of Federal funds proposed to be obligated during each program year;

(iv) For the first year, the proposed category of Federal funds and source(s) of non-Federal funds;

(v) For the second and third years, the likely category or possible categories of Federal funds and sources of non-Federal funds;

(vi) Identification of the agencies responsible for carrying out the project; and

(9) For non-metropolitan areas, include in the first year only those projects which have been selected in accordance with the project selection requirements in § 450.222(c).

(b) Projects that are not considered to be of appropriate scale for individual identification in a given program year may be grouped by function, work type, and/or geographic area using the applicable classifications under 23 CFR 771.117 (c) and (d) and/or 40 CFR part 51.

(c) Projects in any of the first three years of the STIP may be moved to any other of the first three years of the STIP subject to the project selection requirements of § 450.222.

(d) The STIP may be amended at any time under procedures agreed to by the cooperating parties consistent with the procedures established in this section (for STIP development), in § 450.212 (for public involvement) and in § 450.220 (for the FHWA and the FTA approval).

§ 450.218 Funding.

Funds provided under sections 8, 9, 18, and 26(a)(2) of the Federal Transit Act and 23 U.S.C. 104(b)(1), 104(b)(3), 104(f)(3) and 307(c)(1) may be used to accomplish activities in this subpart.

§ 450.220 Approvals.

(a) At least every two years, each State shall submit the entire proposed STIP, and amendments as necessary, concurrently to the FHWA and the FTA for joint approval. The State shall certify that the transportation planning process is being carried out in accordance with all applicable requirements of:

(1) 23 U.S.C. 135, section 8(q) of the Federal Transit Act and this part;

(2) Title VI of the Civil Rights Act of 1964 and the Title VI assurance executed by each State under 23 U.S.C. 324 and 29 U.S.C. 794;

(3) Section 1003(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102–240, 105 Stat. 1914) regarding the involvement of disadvantaged business enterprises in the FHWA and the FTA funded projects (sec. 105(f), Pub. L. 97–424, 96 Stat. 2100; 49 CFR part 23);

(4) The provisions of the Americans with Disabilities Act of 1990 (Pub. L. 101–336, 104 Stat. 327, as amended) and U.S. DOT regulations "Transportation for Individuals with Disabilities" (49 CFR parts 27, 37, and 38);

(5) The provisions of 49 CFR part 20 regarding restrictions on influencing certain Federal activities; and

(6) In States containing nonattainment and maintenance areas, sections 174 and 176 (c) and (d) of the Clean Air Act as amended (42 U.S.C. 7504, 7506 (c) and (d)).

(b) The FHWA and the FTA Administrators, in consultation with, where applicable, Federal lands agencies, will review the STIP or amendment and jointly make a finding as to the extent the projects in the STIP are based on a planning process that meets or substantially meets the requirements of title 23, U.S.C., the Federal Transit Act and subparts A, B and C of this part.

(c) If, upon review, the FHWA and the FTA Administrators jointly determine that the STIP or amendment meet, to an acceptable degree, the requirements of 23 U.S.C. 135 and these regulations (including subpart C where a metropolitan TIP is involved), they will approve the STIP. Approval action will take one of the following forms, as appropriate:

(1) Joint approval of the STIP;

(2) Joint approval of the STIP subject to certain corrective actions being taken;

(3) Joint approval of the STIP as the basis for approval of identified categories of projects; and/or

(4) Under special circumstances, joint approval of a partial STIP covering only a portion of the State.

(d) The joint approval period for a new STIP or amended STIP will not exceed two years. Where the State demonstrates that extenuating circumstances will delay the submittal of a new STIP or amended STIP for approval, FHWA and FTA will consider and take appropriate action on requests to extend the approval beyond two years for all or part of the STIP for a limited period of time. Where the request involves projects in a metropolitan planning area(s), the affected MPO(s) must concur in the request and if the delay was due to the development and approval of the TIP, the affected MPO(s) must provide supporting information for the request. If nonattainment and/or maintenance areas are involved, a request for an extension cannot be granted if the conformity determination on the TIP is no longer valid under EPA's conformity regulations (40 CFR part 51).

(e) If, upon review, the FHWA and the FTA Administrators jointly determine that the STIP or amendment does not substantially meet the requirements of 23 U.S.C. 135 and this part for any identified categories of projects, they will not approve the STIP.

(f) The FHWA and the FTA will notify the State of actions taken under this section.

(g) Where necessary in order to maintain or establish operations, the Federal Transit Administrator and/or the Federal Highway Administrator may approve operating assistance for specific projects or programs even though the projects or programs may not be included in an approved STIP.

§ 450.222 Project selection for implementation.

(a) Except as provided in §§ 450.220(f) and 450.216(a)(7), only projects included in the Federally approved STIP shall be eligible for funds administered by the FHWA or the FTA.

(b) In metropolitan planning areas, transportation projects requiring title 23 or Federal Transit Act funds administered by the FHWA or the FTA shall be selected in accordance with procedures established pursuant to the project selection portion of the metropolitan planning regulation in subpart C of this part.

(c) Outside metropolitan planning areas, transportation projects undertaken on the National Highway System with title 23 funds and under the bridge and Interstate maintenance programs shall be selected by the State in consultation with the affected local officials. Federal lands highway projects shall be selected in accordance with 23 U.S.C. 204. Other transportation projects undertaken with funds administered by the FHWA shall be selected by the State in cooperation with the affected local officials, and projects undertaken with Federal Transit Act funds shall be selected by the State in cooperation with the appropriate affected local officials and transit operators.

(d) The projects in the first year of an approved STIP shall constitute an "agreed to" list of projects for subsequent scheduling and implementation. No further project selection action is required for the implementing agency to proceed with these projects except that if appropriated Federal funds available are significantly less than the authorized amounts, § 450.332(c) provides for a revised list of "agreed to" projects to be developed upon the request of the State, MPO, or transit operators. If an implementing agency wishes to proceed with a project in the second and third year of the STIP, the specific project selection procedures stated in paragraphs (b) and (c) of this section must be used. Expedited selection procedures which provide for the advancement of projects from the second or third years of the STIP may be used if agreed to by all the parties involved in the selection.

§ 450.224 Phase-in of new requirements.

The State shall, by January 1, 1995, identify the official statewide transportation plan, described under § 450.214, to be used as a basis for subsequently approved STIPs. Until such a plan is identified, but no later than January 1, 1995, the State may identify existing plans and policies which can serve as the official interim plan. STIP development shall be based upon a transportation plan which serves as the official plan (including an interim plan, if appropriate, prior to January 1, 1995, provided that all factors identified in § 450.208 are considered).

Subpart C—Metropolitan Transportation Planning and Programming

§ 450.300 Purpose.

The purpose of this subpart is to implement 23 U.S.C. 134 and section 8 of the Federal Transit Act, as amended, which require that a Metropolitan Planning Organization (MPO) be designated for each urbanized area and that the metropolitan area has a continuing, cooperative, and comprehensive transportation planning process that results in plans and programs that consider all transportation modes and supports metropolitan community development and social goals. These plans and programs shall lead to the development and operation of an integrated, intermodal transportation system that facilitates the efficient, economic movement of people and goods.

§ 450.302 Applicability.

The provisions of this subpart are applicable to agencies involved in the transportation planning, program development, and project selection processes in metropolitan planning areas.

§ 450.304 Definitions.

Except as otherwise provided in subpart A of this part, terms defined in 23 U.S.C. 101(a) are used in this part as so defined.

§ 450.306 Metropolitan planning organization: Designations and redesignation.

(a) Designations of metropolitan planning organizations (MPOs) made after December 18, 1991, shall be by agreement among the Governor(s) and units of general purpose local governments representing 75 percent of the affected metropolitan population (including the central city or cities as defined by the Bureau of the Census), or in accordance with procedures established by applicable State or local law. To the extent possible, only one MPO shall be designated for each UZA or group of contiguous UZAs. More than one MPO may be designated within an UZA only if the Governor(s) determines that the size and complexity of the UZA make designation of more than one MPO appropriate.

(b) The designation shall clearly identify the policy body that is the forum for cooperative decisionmaking that will be taking the required approval actions as the MPO.

(c) To the extent possible, the MPO designated should be established under specific State legislation, State enabling legislation, or by interstate compact, and shall have authority to carry out metropolitan transportation planning.

(d) Redesignation (designation of a new MPO(s) to replace an existing MPO) shall occur by agreement of the Governor and affected local units of government representing 75 percent of the population in the entire metropolitan area. The central city(ies) must be among the units of local government agreeing to the redesignation.

(e) Nothing in this subpart shall be deemed to prohibit the MPO from utilizing the staff resources of other agencies to carry out selected elements of the planning process.

(f) Existing MPO designations remain valid until a new MPO is redesignated, unless revoked by the Governor and local units of government representing 75 percent of the population in the area served by the existing MPO (the central city(ies) must be among those desiring to revoke the MPO designation), or as otherwise provided under State or local procedures. If the Governor and local officials decide to redesignate an existing MPO, but do not formally revoke the existing MPO designation, the existing MPO remains in effect until a new MPO is formally designated.

(g) Redesignation of an MPO in a multistate metropolitan area requires the approval of the Governor of each State and local officials representing 75 percent of the population in the entire metropolitan planning area. The local officials in the central city(ies) must be among those agreeing to the redesignation.

(h) Redesignation of an MPO covering more than one UZA requires the approval of the Governor and local officials representing 75 percent of the population in the metropolitan planning area covered by the current MPO; the local officials in the central city(ies) in each urbanized area must be among those agreeing to the redesignation.

(i) The voting membership of an MPO policy body designated/redesignated subsequent to December 18, 1991, and serving a TMA, must include representation of local elected officials, officials of agencies that administer or operate major modes or systems of transportation, e.g., transit operators, sponsors of major local airports, maritime ports, rail operators, etc. (including all transportation agencies that were included in the MPO on June 1, 1991), and appropriate State officials. Where agencies that operate other major modes of transportation do not already have a voice on existing MPOs, the MPOs (in cooperation with the States) are encouraged to provide such agencies a voice in the decisionmaking process, including representation/membership on the policy body and/or other appropriate committees. Further, where appropriate, existing MPOs should increase the representation of local elected officials on the policy board and other committees as a means for encouraging their greater involvement in MPO processes. Adding such representation to an MPO will not, in itself, constitute a redesignation action.

(j) Where the metropolitan planning area boundaries for a previously designated MPO need to be expanded, the membership on the MPO policy body and other committees, should be reviewed to ensure that the added area has appropriate representation.

(k) Adding membership (e.g., local elected officials and operators of major modes or systems of transportation, or representatives of newly urbanized areas) to the policy body or expansion of the metropolitan planning area does not automatically require redesignation of the MPO. To the extent possible, it is encouraged that this be done without a formal redesignation. The Governor and MPO shall review the previous MPO designation, State and local law, MPO bylaws, etc., to determine if this can be accomplished without a formal redesignation. If redesignation is considered necessary, the existing MPO will remain in effect until a new MPO is formally designated or the existing designation is formally revoked in accordance with the procedures of this section.

§ 450.308 Metropolitan planning organization: Metropolitan planning area boundaries.

(a) The metropolitan planning area boundary shall, as a minimum, cover the UZA(s) and the contiguous geographic area(s) likely to become urbanized within the twenty year forecast period covered by the transportation plan described in § 450.322 of this part. The boundary may encompass the entire metropolitan

statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census. For geographic areas designated as nonattainment or maintenance areas (as created by the Clean Air Act Amendments of 1990 (CAAA)) for transportation related pollutants under the CAA, the boundaries of the metropolitan planning area shall include at least the boundaries of the nonattainment or maintenance areas, except as otherwise provided by agreement between the MPO and the Governor under the procedures specified in § 450.310(f) of this part. In the absence of a formal agreement between the Governor and the MPO to reduce the metropolitan planning area to an area less than the boundaries of the nonattainment or maintenance area, the entire nonattainment or maintenance area is subject to the applicable provisions of this part. Where a portion of the nonattainment or maintenance area is excluded from the metropolitan planning area boundary, the STP funds suballocated to urbanized areas greater than 200,000 in population shall not be utilized for projects outside the metropolitan planning area boundary.

(b) The metropolitan planning area for a new UZA served by an existing or new MPO shall be established in accordance with these criteria. The current planning area boundaries for previously designated UZAs shall be reviewed and modified if necessary to comply with these criteria.

(c) In addition to the criteria in paragraph (a) of this section, the planning areas currently in use for all transportation modes should be reviewed before establishing the metropolitan planning area boundary. Where appropriate, adjustments should be made to reflect the most comprehensive boundary to foster an effective planning process that ensures connectivity between modes, reduces access disadvantages experienced by modal systems, and promotes efficient overall transportation investment strategies.

(d) Approval of metropolitan planning area boundaries by the FHWA or the FTA is not required. However, metropolitan planning area boundary maps must be submitted to the FHWA and the FTA after their approval by the MPO and the Governor.

§ 450.310 Metropolitan planning organization: Agreements.

(a) The responsibilities for cooperatively carrying out transportation planning (including corridor and subarea studies) and programming shall be clearly identified in an agreement or memorandum of understanding between the State and the MPO.

(b) There shall be an agreement between the MPO and operators of publicly owned transit services which specifies cooperative procedures for carrying out transportation planning (including corridor and subarea studies) and programming as required by this subpart.

(c) In nonattainment or maintenances areas, if the MPO is not designated for air quality planning under section 174 of the Clean Air Act (42 U.S.C. 7504), there shall be an agreement between the MPO and the designated agency describing their respective roles and responsibilities for air quality related transportation planning.

(d) To the extent possible, there shall be one cooperative agreement containing the understandings required by paragraphs (a) through (c) of this section among the State, MPO, publicly owned operators of mass transportation services, and air quality agencies.

(e) Where the parties involved agree, the requirement for agreements specified in paragraphs (a), (b), and (c) of this section may be satisfied by including the responsibilities and procedures for carrying out a cooperative process in the unified planning work program or a prospectus as defined in § 450.314(c).

(f) If the metropolitan planning area does not include the entire nonattainment or maintenance area, there shall be an agreement among the State department of transportation, State air quality agency, affected local agencies, and the MPO describing the process for cooperative planning and analysis of all projects outside the metropolitan planning area but within the nonattainment or maintenance area. The agreement also must indicate how the total transportation related emissions for the nonattainment or maintenance area, including areas both within and outside the metropolitan planning area, will be treated for the purposes of determining conformity in accordance with the U.S. EPA conformity regulation (40 CFR part 51). The agreement shall address policy mechanisms for resolving conflicts concerning transportation related emissions that may arise between the metropolitan planning area and the portion of the nonattainment or maintenance area outside the metropolitan planning area. Proposals to exclude a portion of the nonattainment or maintenance area from the planning area boundary shall be coordinated with the FHWA, the FTA, the EPA, and the State air quality agency before a final decision is made.

(g) Where more than one MPO has authority within a metropolitan planning area or a nonattainment or maintenance area, there shall be an agreement between the State department(s) of transportation and the MPOs describing how the processes will be coordinated to assure the development of an overall transportation plan for the metropolitan planning area. In metropolitan planning areas that are nonattainment or maintenance areas, the agreement shall include State and local air quality agencies. The agreement shall address policy mechanisms for resolving potential conflicts that may arise between the MPOs, e.g., issues related to the exclusion of a portion of the nonattainment area from the planning area boundary.

(h) For all requirements specified in paragraphs (a) through (g) of this section, existing agreements shall be reviewed for compliance and reaffirmed or modified as necessary to ensure participation by all appropriate modes.

§ 450.312 Metropolitan transportation planning: Responsibilities, cooperation, and coordination.

(a) The MPO in cooperation with the State and with operators of publicly owned transit services shall be responsible for carrying out the metropolitan transportation planning process. The MPO, the State and transit operator(s) shall cooperatively determine their mutual responsibilities in the conduct of the planning process, including corridor refinement studies, described in §§ 450.316 through 450.318. They shall cooperatively develop the unified planning work program, transportation plan, and transportation improvement program specified in §§ 450.314 through 450.318. In addition, the development of the plan and TIP shall be coordinated with other providers of transportation, e.g., sponsors of regional airports, maritime port operators, rail freight operators, etc.

(b) The MPO shall approve the metropolitan transportation plan and its periodic updates. The MPO and the Governor shall approve the metropolitan transportation improvement program and any amendments.

(c) In nonattainment or maintenance areas, the MPO shall coordinate the development of the transportation plan with the SIP development process including the development of the transportation control measures. The MPO shall develop or assist in

developing the transportation control measures.

(d) In nonattainment or maintenance areas for transportation related pollutants, the MPO shall not approve any transportation plan or program which does not conform with the SIP, as determined in accordance with the U.S. EPA conformity regulation (40 CFR Part 51).

(e) If more than one MPO has authority in a metropolitan planning area (including multi-State metropolitan planning areas) or in an area which is designated as nonattainment or maintenance for transportation related pollutants, the MPOs and the Governor(s) shall cooperatively establish the boundaries of the metropolitan planning area (including the twenty year planning horizon and relationship to the nonattainment or maintenance areas) and the respective jurisdictional responsibilities of each MPO. The MPOs shall consult with each other and the State(s) to assure the preparation of integrated plans and transportation improvement programs for the entire metropolitan planning area. An individual MPO plan and program may be developed separately. However, each plan and program must be consistent with the plans and programs of other MPOs in the metropolitan planning area. For the overall metropolitan planning area, the individual MPO planning process shall reflect coordinated data collection, analysis and development. In those areas where this provision is applicable, coordination efforts shall be initiated and the process and outcomes documented in subsequent transmittals of the UPWP and various planning products (the plan, TIP, etc.) to the State, the FHWA, and the FTA.

(f) The Secretary must designate as transportation management areas all UZAs over 200,000 population as determined by the most recent decennial census. The Secretary designated TMAs by publishing a notice in the **Federal Register**. Copies of this notice may be obtained from the FHWA Metropolitan Planning Division or Office of Planning FTA. The TMAs so designated and those designated subsequently by the FHWA and the FTA (including those designated upon request of the MPO and the Governor) must comply with the special requirements applicable to such areas regarding congestion management systems, project selection, and certification. The TMA designation applies to the entire metropolitan planning area boundary. If a metropolitan planning area encompasses a TMA and other UZA(s), the designation applies to the entire metropolitan planning area regardless of the population of constituent UZAs.

(g) As required by 23 CFR part 500, the required management systems shall be developed cooperatively by the State, the MPOs and transit operators for each metropolitan planning area. In TMAs, the congestion management system will be developed as part of the metropolitan transportation planning process.

(h) The State shall cooperatively participate in the development of metropolitan transportation plans. The relationship of the statewide transportation plan and the metropolitan plan is specified in subpart B of this part.

(i) Where a metropolitan planning area includes Federal public lands and/or Indian tribal lands, the affected Federal agencies and Indian tribal governments shall be involved appropriately in the development of transportation plans and programs.

§ 450.314 Metropolitan transportation planning process: Unified planning work programs.

(a) In TMAs, the MPO(s) in cooperation with the State and operators of publicly owned transit shall develop unified planning work programs (UPWPs) that meet the requirements of 23 CFR part 420, subpart A, and:

(1) Discuss the planning priorities facing the metropolitan planning area and describe all metropolitan transportation and transportation-related air quality planning activities (including the corridor and subarea studies discussed in § 450.318) anticipated within the area during the next one or two year period, regardless of funding sources or agencies conducting activities, in sufficient detail to indicate who will perform the work, the schedule for completing it and the products that will be produced;

(2) Document planning activities to be performed with funds provided under title 23, U.S.C., and the Federal Transit Act.

(b) Arrangements may be made with the FHWA and the FTA to combine the UPWP requirements with the work program for other Federal sources of planning funds.

(c) The metropolitan transportation planning process may include the development of a prospectus that establishes a multiyear framework within which the UPWP is accomplished. The prospectus may be used to satisfy the requirements of § 450.310 and paragraph (a)(1) of this section.

(d) In areas not designated as TMAs, the MPO in cooperation with the State and transit operators, with the approval of the FHWA and the FTA, may prepare a simplified statement of work, in lieu of a UPWP, that describes who will perform the work and the work that will be accomplished using Federal funds. If a simplified statement of work is used, it may be submitted as part of the Statewide planning work program, in accordance with 23 CFR part 420.

§ 450.316 Metropolitan transportation planning process: Elements.

(a) Section 134(f) of title 23, U.S.C., and Federal Transit Act section 8(f) (49 U.S.C. app. 1607(f)) list 15 factors that must be considered as part of the planning process for all metropolitan areas. The following factors shall be explicitly considered, analyzed as appropriate, and reflected in the planning process products:

(1) Preservation of existing transportation facilities and, where practical, ways to meet transportation needs by using existing transportation facilities more efficiently;

(2) Consistency of transportation planning with applicable Federal, State, and local energy conservation programs, goals, and objectives;

(3) The need to relieve congestion and prevent congestion from occurring where it does not yet occur including:

(i) The consideration of congestion management strategies or actions which improve the mobility of people and goods in all phases of the planning process; and

(ii) In TMAs, a congestion management system that provides for effective management of new and existing transportation facilities through the use of travel demand reduction and operation management strategies (e.g., various elements of IVHS) shall be developed in accordance with § 450.320;

(4) The likely effect of transportation policy decisions on land use and development and the consistency of transportation plans and programs with the provisions of all applicable short- and long-term land use and development plans (the analysis should include projections of metropolitan planning area economic, demographic, environmental protection, growth management, and land use activities consistent with metropolitan and local/central city development goals (community, economic, housing, etc.), and projections of potential transportation demands based on the interrelated level of activity in these areas);

(5) Programming of expenditures for transportation enhancement activities as required under 23 U.S.C. 133;

(6) The effects of all transportation projects to be undertaken within the metropolitan planning area, without regard to the source of funding (the analysis shall consider the effectiveness, cost effectiveness, and financing of alternative investments in meeting transportation demand and supporting the overall efficiency and effectiveness of transportation system performance and related impacts on community/central city goals regarding social and economic development, housing, and employment);

(7) International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation areas, monuments and historic sites, and military installations (supporting technical efforts should provide an analysis of goods and services movement problem areas, as determined in cooperation with appropriate private sector involvement, including, but not limited to, addressing interconnected transportation access and service needs of intermodal facilities);

(8) Connectivity of roads within metropolitan planning areas with roads outside of those areas;

(9) Transportation needs identified through the use of the management systems required under 23 U.S.C. 303 (strategies identified under each management system will be analyzed during the development of the transportation plan, including its financial component, for possible inclusion in the metropolitan plan and TIP);

(10) Preservation of rights-of-way for construction of future transportation projects, including future transportation corridors;

(11) Enhancement of the efficient movement of freight;

(12) The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement (operating and maintenance costs must be considered in analyzing transportation alternatives);

(13) The overall social, economic, energy, and environmental effects of transportation decisions (including consideration of the effects and impacts of the plan on the human, natural and man-made environment such as housing, employment and community development, consultation with appropriate resource and permit agencies to ensure early and continued coordination with environmental resource protection and management plans, and appropriate emphasis on transportation-related air quality problems in support of the requirements of 23 U.S.C. 109(h), and section 14 of the Federal Transit Act (49 U.S.C. 1610), section 4(f) of the DOT Act (49 U.S.C. 303) and section 174(b) of the Clean Air Act (42 U.S.C. 7504(b)));

(14) Expansion, enhancement, and increased use of transit services; and

(15) Capital investments that would result in increased security in transit systems.

(b) In addition, the metropolitan transportation planning process shall:

(1) Include a proactive public involvement process that provides complete information, timely public notice, full public access to key decisions, and supports early and continuing involvement of the public in developing plans and TIPs and meets the requirements and criteria specified as follows:

(i) Require a minimum public comment period of 45 days before the public involvement process is initially adopted or revised;

(ii) Provide timely information about transportation issues and processes to citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, other interested parties and segments of the community affected by transportation plans, programs and projects (including but not limited to central city and other local jurisdiction concerns);

(iii) Provide reasonable public access to technical and policy information used in the development of plans and TIPs and open public meetings where matters related to the Federal-aid highway and transit programs are being considered;

(iv) Require adequate public notice of public involvement activities and time for public review and comment at key decision points, including, but not limited to, approval of plans and TIPs (in nonattainment areas, classified as serious and above, the comment period shall be at least 30 days for the plan, TIP and major amendment(s));

(v) Demonstrate explicit consideration and response to public input received during the planning and program development processes;

(vi) Seek out and consider the needs of those traditionally underserved by existing transportation systems, including but not limited to low-income and minority households;

(vii) When significant written and oral comments are received on the draft transportation plan or TIP (including the financial plan) as a result of the public involvement process or the interagency consultation process required under the U.S. EPA's conformity regulations, a summary, analysis, and report on the disposition of comments shall be made part of the final plan and TIP;

(viii) If the final transportation plan or TIP differs significantly from the one which was made available for public comment by the MPO and raises new material issues which interested parties could not reasonably have foreseen from the public involvement efforts, an additional opportunity for public comment on the revised plan or TIP shall be made available;

(ix) Public involvement processes shall be periodically reviewed by the MPO in terms of their effectiveness in assuring that the process provides full and open access to all;

(x) These procedures will be reviewed by the FHWA and the FTA during certification reviews for TMAs, and as otherwise necessary for all MPOs, to assure that full and open access is provided to MPO decisionmaking processes;

(xi) Metropolitan public involvement processes shall be coordinated with statewide public involvement processes wherever possible to enhance public consideration of the issues, plans, and programs and reduce redundancies and costs;

(2) Be consistent with Title VI of the Civil Rights Act of 1964 and the Title VI assurance executed by each State under 23 U.S.C. 324 and 29 U.S.C. 794, which ensure that no person shall, on the grounds of race, color, sex, national origin, or physical handicap, be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination under any program receiving Federal assistance from the United States Department of Transportation;

(3) Identify actions necessary to comply with the Americans With Disabilities Act of 1990 (Pub. L. 101–336, 104 Stat. 327, as amended) and U.S. DOT regulations "Transportation for Individuals With Disabilities" (49 CFR parts 27, 37, and 38);

(4) Provide for the involvement of traffic, ridesharing, parking, transportation safety and enforcement agencies; commuter rail operators; airport and port authorities; toll authorities; appropriate private transportation providers, and where appropriate city officials; and

(5) Provide for the involvement of local, State, and Federal environment resource and permit agencies as appropriate.

(c) In attainment areas not designated as TMAs simplified procedures for the development of plans and programs, if considered appropriate, shall be proposed by the MPO in cooperation with the State and transit operator, and

submitted by the State for approval by the FHWA and the FTA. In developing proposed simplified planning procedures, consideration shall be given to the transportation problems in the area and their complexity, the growth rate of the area (e.g., fast, moderate or slow), the appropriateness of the factors specified for consideration in this subpart including air quality, and the desirability of continuing any planning process that has already been established. Areas experiencing fast growth should give consideration to a planning process that addresses all of the general requirements specified in this subpart. As a minimum, all areas employing a simplified planning process will need to develop a transportation plan to be approved by the MPO and a TIP to be approved by the MPO and the Governor.

(d) The metropolitan transportation planning process shall include preparation of technical and other reports to assure documentation of the development, refinement, and update of the transportation plan. The reports shall be reasonably available to interested parties, consistent with § 450.316(b)(1).

§ 450.318 Metropolitan transportation planning process: Major metropolitan transportation investments.

(a) Where the need for a major metropolitan transportation investment is identified, and Federal funds are potentially involved, major investment (corridor or subarea) studies shall be undertaken to develop or refine the plan and lead to decisions by the MPO, in cooperation with participating agencies, on the design concept and scope of the investment. Where the studies have not been completed prior to plan approval, the provisions of § 450.322(b)(8) apply.

(b) When any of the implementing agencies or the MPO wish to initiate a major investment study, a meeting will be convened to determine the extent of the analyses and agency roles in a cooperative process which involves the MPO, the State department of transportation, public transit operators, environmental, resource and permit agencies, local officials, the FHWA and the FTA and where appropriate community development agencies, major governmental housing bodies, and such other related agencies as may be impacted by the proposed scope of analysis. A reasonable opportunity, consistent with § 450.316(b)(1), shall be provided for citizens and interested parties including affected public agencies, representatives of transportation agency employees, and private providers of transportation to participate in the cooperative process. This cooperative process shall establish the range of alternatives to be studied, such as alternative modes and technologies (including intelligent vehicle and highway systems), general alignment, number of lanes, the degree of demand management, and operating characteristics.

(c) To the extent appropriate as determined under paragraph (b) of this section, major investment studies shall evaluate the effectiveness and cost-effectiveness of alternative investments or strategies in attaining local, State and national goals and objectives. The analysis shall consider the direct and indirect costs of reasonable alternatives and such factors as mobility improvements; social, economic, and environmental effects; safety; operating efficiencies; land use and economic development; financing; and energy consumption.

(d) These major investment studies will serve as the "alternatives analyses" required by section 3(i)(1)(A) of the Federal Transit Act (49 U.S.C. app. 1602(i)) for certain projects for which discretionary section 3 "New Start" funding is being sought. The studies will also be used as the primary source of information for the other section 3(i)(1)(A) Secretarial findings on cost-effectiveness, local financial commitment and capacity, mobility improvements, environmental benefits, economic development, operating efficiency, etc.

(e) These major investment studies also will, when appropriate, serve as the analysis of demand reduction and operational management strategies pursuant to 23 CFR 500.509.

(f) A major investment study will include environmental studies which will be used for environmental documents as described in paragraphs (f)(1) and (2) of this section:

(1) As a minimum the participating agencies will use the major investment study as input to an environmental impact statement or environmental assessment prepared subsequent to the completion of the study. In such a case, the major investment study reports shall document the consideration given to alternatives and their impacts; or

(2) The participating agencies may elect to develop a draft environmental impact statement or environmental assessment as part of the major investment study. At any time after the completion of the study and the inclusion of the major transportation investment in the plan and the TIP the participating agencies may request the development of final environmental decision documents required under NEPA for such major transportation investments, culminating in the execution of a Record of Decision or Finding of No Significant Impact by the FHWA and/or the FTA.

(g) Major investment studies may lead to decisions that modify the project design concept and scope assumed in the plan development process. In this case, the study shall lead to the specification of a project's design concept and scope in sufficient detail to meet the requirements of the U.S. EPA conformity regulations (40 CFR part 51).

(h) Major investment studies are eligible for funds authorized under sections 8, 9 and 26 of the Federal Transit Act (49 U.S.C. app. 1607, 16072, and 1622) and planning and capital funds apportioned under title 23, U.S.C., and shall be included in the UPWP. If CMAQ, STP, NHS, or other capital funds administered by the FHWA are utilized for this purpose, the study must also be included in the TIP.

(i) Where the environmental process has been completed and a Record of Decision or Finding of No Significant Impact has been signed, § 450.318 does not apply. Where the environmental process has been initiated but not completed, the FHWA and the FTA shall be consulted on appropriate modifications to meet the requirements of this section.

§ 450.320 Metropolitan transportation planning process: Relation to management systems.

(a) As required by the provisions of the management system regulations 23 CFR part 500, within all metropolitan planning areas, the congestion management, public transportation, and intermodal management systems, to the extent appropriate, shall be part of the metropolitan transportation planning process required under the provisions of 23 U.S.C. 134 and 49 U.S.C. app. 1607.

(b) In TMAs designated as nonattainment for ozone or carbon monoxide, Federal funds may not be programmed for any project that will result in a significant increase in carrying capacity for single occupant vehicles (a new general purpose highway on a new location or adding general purpose lanes, with the exception of safety improvements or the elimination of bottlenecks) unless the project results from a congestion management system (CMS) meeting the requirements of 23 CFR part 500, subpart E. Such projects shall incorporate all reasonably available strategies to manage the SOV facility effectively (or to facilitate its management in the future). Other travel demand reduction and operational

management strategies identified under 23 CFR 500.505(e), as appropriate for the corridor, but not appropriate for incorporation into the SOV facility itself, shall be committed to by the State and the MPO for implementation in a timely manner, but no later than the completion date for the SOV project. Projects that had advanced beyond the NEPA stage prior to April 6, 1992, and which are actively advancing to implementation, e.g., right-of-way acquisition has been approved, shall be deemed programmed and not subject to this provision.

(c) In TMAs, the planning process must include the development of a CMS that provides for effective management of new and existing transportation facilities through the use of travel demand reduction and operational management strategies and meets the requirements of 23 CFR part 500, subpart E.

(d) The effectiveness of the management systems in enhancing transportation investment decisions and improving the overall efficiency of the metropolitan area's transportation systems and facilities shall be evaluated periodically, preferably as part of the metropolitan planning process.

§ 450.322 Metropolitan transportation planning process: Transportation plan.

(a) The metropolitan transportation planning process shall include the development of a transportation plan addressing at least a twenty year planning horizon. The plan shall include both long-range and short-range strategies/actions that lead to the development of an integrated intermodal transportation system that facilitates the efficient movement of people and goods. The transportation plan shall be reviewed and updated at least triennially in nonattainment and maintenance areas and at least every five years in attainment areas to confirm its validity and its consistency with current and forecasted transportation and land use conditions and trends and to extend the forecast period. The transportation plan must be approved by the MPO.

(b) In addition, the plan shall:

(1) Identify the projected transportation demand of persons and goods in the metropolitan planning area over the period of the plan;

(2) Identify adopted congestion management strategies including, as appropriate, traffic operations, ridesharing, pedestrian and bicycle facilities, alternative work schedules, freight movement options, high occupancy vehicle treatments, telecommuting, and public transportation improvements (including regulatory, pricing, management, and operational options), that demonstrate a systematic approach in addressing current and future transportation demand;

(3) Identify pedestrian walkway and bicycle transportation facilities in accordance with 23 U.S.C. 217(g);

(4) Reflect the consideration given to the results of the management systems, including in TMAs that are nonattainment areas for carbon monoxide and ozone, identification of SOV projects that result from a congestion management system that meets the requirements of 23 CFR part 500, subpart E;

(5) Assess capital investment and other measures necessary to preserve the existing transportation system (including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization, and rehabilitation of existing and future transit facilities) and make the most efficient use of existing transportation facilities to relieve vehicular congestion and enhance the mobility of people and goods;

(6) Include design concept and scope descriptions of all existing and proposed transportation facilities in sufficient detail, regardless of the source of funding, in nonattainment and maintenance areas to permit conformity determinations under the U.S. EPA conformity regulations at 40 CFR part 51. In all areas, all proposed improvements shall be described in sufficient detail to develop cost estimates;

(7) Reflect a multimodal evaluation of the transportation, socioeconomic, environmental, and financial impact of the overall plan, including all major transportation investments in accordance with § 450.318;

(8) For major transportation investments for which analyses are not complete, indicate that the design concept and scope (mode and alignment) have not been fully determined and will require further analysis. The plan shall identify such study corridors and subareas and may stipulate either a set of assumptions (assumed alternatives) concerning the proposed improvements or a no-build condition pending the completion of a corridor or subarea level analysis under § 450.318. In nonattainment and maintenance areas, the set of assumed alternatives shall be in sufficient detail to permit plan conformity determinations under the U.S. EPA conformity regulations (40 CFR part 51);

(9) Reflect, to the extent that they exist, consideration of: the area's comprehensive long-range land use plan and metropolitan development objectives; national, State, and local housing goals and strategies, community development and employment plans and strategies, and environmental resource plans; local, State, and national goals and objectives such as linking low income households with employment opportunities; and the area's overall social, economic, environmental, and energy conservation goals and objectives;

(10) Indicate, as appropriate, proposed transportation enhancement activities as defined in 23 U.S.C. 101(a); and

(11) Include a financial plan that demonstrates the consistency of proposed transportation investments with already available and projected sources of revenue. The financial plan shall compare the estimated revenue from existing and proposed funding sources that can reasonably be expected to be available for transportation uses, and the estimated costs of constructing, maintaining and operating the total (existing plus planned) transportation system over the period of the plan. The estimated revenue by existing revenue source (local, State, and Federal and private) available for transportation projects shall be determined and any shortfalls identified. Proposed new revenues and/or revenue sources to cover shortfalls shall be identified, including strategies for ensuring their availability for proposed investments. Existing and proposed revenues shall cover all forecasted capital, operating, and maintenance costs. All cost and revenue projections shall be based on the data reflecting the existing situation and historical trends. For nonattainment and maintenance areas, the financial plan shall address the specific financial strategies required to ensure the implementation of projects and programs to reach air quality compliance.

(c) There must be adequate opportunity for public official (including elected officials) and citizen involvement in the development of the transportation plan before it is approved by the MPO, in accordance with the requirements of § 450.316(b)(1). Such procedures shall include opportunities for interested parties (including citizens, affected public agencies, representatives of transportation agency employees, and private providers of transportation) to be involved in the early stages of the plan development/update process. The procedures shall include publication of the proposed plan or other methods to

make it readily available for public review and comment and, in nonattainment TMAs, an opportunity for at least one formal public meeting annually to review planning assumptions and the plan development process with interested parties and the general public. The procedures also shall include publication of the approved plan or other methods to make it readily available for information purposes.

(d) In nonattainment and maintenance areas for transportation related pollutants, the FHWA and the FTA, as well as the MPO, must make a conformity determination on any new/revised plan in accordance with the Clean Air Act and the EPA conformity regulations (40 CFR part 51).

(e) Although transportation plans do not need to be approved by the FHWA or the FTA, copies of any new/revised plans must be provided to each agency.

§ 450.324 Transportation improvement program: General.

(a) The metropolitan transportation planning process shall include development of a transportation improvement program (TIP) for the metropolitan planning area by the MPO in cooperation with the State and public transit operators.

(b) The TIP must be updated at least every two years and approved by the MPO and the Governor. The frequency and cycle for updating the TIP must be compatible with the STIP development and approval process. Since the TIP becomes part of the STIP, the TIP lapses when the FHWA and FTA approval for the STIP lapses. In the case of extenuating circumstances, FHWA and FTA will consider and take appropriate action on requests to extend the STIP approval period for all or part of the STIP in accordance with § 450.220(d). Although metropolitan TIPs, unlike statewide TIPs, do not need to be approved by the FHWA or the FTA, copies of any new or amended TIPs must be provided to each agency. Additionally, in nonattainment and maintenance areas for transportation related pollutants, the FHWA and the FTA, as well as the MPO, must make a conformity determination on any new or amended TIPs (unless the amendment consists entirely of exempt projects) in accordance with the Clean Air Act requirements and the EPA conformity regulations (40 CFR part 51).

(c) There must be reasonable opportunity for public comment in accordance with the requirements of § 450.316(b)(1) and, in nonattainment TMAs, an opportunity for at least one formal public meeting during the TIP development process. This public meeting may be combined with the public meeting required under § 450.322(c). The proposed TIP shall be published or otherwise made readily available for review and comment. Similarly, the approved TIP shall be published or otherwise made readily available for information purposes.

(d) The TIP shall cover a period of not less than 3 years, but may cover a longer period if it identifies priorities and financial information for the additional years. The TIP must include a priority list of projects to be carried out in the first three years. As a minimum, the priority list shall group the projects that are to be undertaken in each of the years, i.e., year 1, year 2, year 3. In nonattainment and maintenance areas, the TIP shall give priority to eligible TCMs identified in the approved SIP in accordance with the U.S. EPA conformity regulation (40 CFR part 51) and shall provide for their timely implementation.

(e) The TIP shall be financially constrained by year and include a financial plan that demonstrates which projects can be implemented using current revenue sources and which projects are to be implemented using proposed revenue sources (while the existing transportation system is being adequately operated and maintained). The financial plan shall be developed by the MPO in cooperation with the State and the transit operator. The State and the transit operator must provide MPOs with estimates of available Federal and State funds which the MPOs shall utilize in developing financial plans. It is expected that the State would develop this information as part of the STIP development process and that the estimates would be refined through this process. Only projects for which construction and operating funds can reasonably be expected to be available may be included. In the case of new funding sources, strategies for ensuring their availability shall be identified. In developing the financial analysis, the MPO shall take into account all projects and strategies funded under title 23, U.S.C., and the Federal Transit Act, other Federal funds, local sources, State assistance, and private participation. In nonattainment and maintenance areas, projects included for the first two years of the current TIP shall be limited to those for which funds are available or committed.

(f) The TIP shall include:

(1) All transportation projects, or identified phases of a project, (including pedestrian walkways, bicycle transportation facilities and transportation enhancement projects) within the metropolitan planning area proposed for funding under title 23, U.S.C., (including Federal Lands Highway projects) and the Federal Transit Act, excluding safety projects funded under 23 U.S.C. 402, emergency relief projects (except those involving substantial functional, locational and capacity changes), and planning and research activities (except those funded with NHS, STP, and/or MA funds). Planning and research activities funded with NHS, STP and/or MA funds, other than those used for major investment studies, may be excluded from the TIP by agreement of the State and the MPO;

(2) Only projects that are consistent with the transportation plan;

(3) All regionally significant transportation projects for which an FHWA or the FTA approval is required whether or not the projects are to be funded with title 23, U.S.C., or Federal Transit Act funds, e.g., addition of an interchange to the Interstate System with State, local, and/or private funds, demonstration projects not funded under title 23, U.S.C., or the Federal Transit Act, etc.;

(4) For informational purposes and air quality analysis in nonattainment and maintenance areas, all regionally significant transportation projects proposed to be funded with Federal funds, including intermodal facilities, not covered in paragraphs (f)(1) or (f)(3) of this section; and

(5) For informational purposes and air quality analysis in nonattainment and maintenance areas, all regionally significant projects to be funded with non-Federal funds.

(g) With respect to each project under paragraph (f) of this section the TIP shall include:

(1) Sufficient descriptive material (i.e., type of work, termini, length, etc.) to identify the project or phase;

(2) Estimated total cost;

(3) The amount of Federal funds proposed to be obligated during each program year;

(4) Proposed source of Federal and non-Federal funds;

(5) Identification of the recipient/subrecipient and State and local agencies responsible for carrying out the project;

(6) In nonattainment and maintenance areas, identification of those projects which are identified as TCMs in the applicable SIP; and

(7) In areas with Americans with Disabilities Act required Paratransit and key station plans, identification of those projects which will implement the plans.

(h) In nonattainment and maintenance areas, projects included shall be specified in sufficient detail (design concept and scope) to permit air quality analysis in accordance with the U.S. EPA conformity requirements (40 CFR part 51).

(i) Projects proposed for FHWA and/or FTA funding that are not considered by the State and MPO to be of appropriate scale for individual identification in a given program year may be grouped by function, geographic area, and work type using applicable classifications under 23 CFR 771.117 (c) and (d). In nonattainment and maintenance areas, classifications must be consistent with the exempt project classifications contained in the U.S. EPA conformity requirements (40 CFR part 51).

(j) Projects utilizing Federal funds that have been allocated to the area pursuant to 23 U.S.C. 133(d)(3)(E) shall be identified.

(k) The total Federal share of projects included in the TIP proposed for funding under section 9 of the Federal Transit Act (49 U.S.C. app. 1607a) may not exceed section 9 authorized funding levels available to the area for the program year.

(l) Procedures or agreements that distribute suballocated Surface Transportation Program or section 9 funds to individual jurisdictions or modes within the metropolitan area by predetermined percentages or formulas are inconsistent with the legislative provisions that require MPOs in cooperation with the State and transit operators to develop a prioritized and financially constrained TIP and shall not be used unless they can be clearly shown to be based on considerations required to be addressed as part of the planning process.

(m) For the purpose of including Federal Transit Act section 3 funded projects in a TIP the following approach shall be followed:

(1) The total Federal share of projects included in the first year of the TIP shall not exceed levels of funding committed to the area; and

(2) The total Federal share of projects included in the second, third and/or subsequent years of the TIP may not exceed levels of funding committed, or reasonably expected to be available, to the area.

(n) As a management tool for monitoring progress in implementing the transportation plan, the TIP shall:

(1) Identify the criteria and process for prioritizing implementation of transportation plan elements (including intermodal trade-offs) for inclusion in the TIP and any changes in priorities from previous TIPs;

(2) List major projects from the previous TIP that were implemented and identify any significant delays in the planned implementation of major projects;

(3) In nonattainment and maintenance areas, describe the progress in implementing any required TCMs, including the reasons for any significant delays in the planned implementation and strategies for ensuring their advancement at the earliest possible time; and

(4) In nonattainment and maintenance areas, include a list of all projects found to conform in a previous TIP and are now part of the base case for the purpose of air quality conformity analyses. Projects shall be included in this list until construction or acquisition has been fully authorized, except when a three-year period has elapsed subsequent to the NEPA approval without any major action taking place to advance the project.

(o) In order to maintain or establish operations, in the absence of an approved metropolitan TIP, the FTA and/or the FHWA Administrators, as appropriate, may approve operating assistance.

§ 450.326 Transportation improvement program: Modification.

The TIP may be modified at any time consistent with the procedures established in this part for its development and approval. In nonattainment or maintenance areas for transportation related pollutants if the TIP is amended by adding or deleting projects which contribute to and/or reduce transportation related emissions or replaced with a new TIP, new conformity determinations by the MPO and the FHWA and the FTA will be necessary. Public involvement procedures consistent with § 450.316(b)(1) shall be utilized in amending the TIP, except that these procedures are not required for TIP amendments that only involve projects of the type covered in § 450.324(i).

§ 450.328 Transportation improvement program: Relationship to statewide TIP.

(a) After approval by the MPO and the Governor, the TIP shall be included without modification, directly or by reference, in the STIP program required under 23 U.S.C. 135 and consistent with § 450.220, except that in nonattainment and maintenance areas, a conformity finding by the FHWA and the FTA must be made before it is included in the STIP. After approval by the MPO and the Governor, a copy shall be provided to the FHWA and the FTA.

(b) The State shall notify the appropriate MPO and Federal Lands Highways Program agencies, e.g., Bureau of Indian Affairs and/or National Park Service, when a TIP including projects under the jurisdiction of these agencies has been included in the STIP.

§ 450.330 Transportation improvement program: Action required by FHWA/FTA.

(a) The FHWA and the FTA must jointly find that each metropolitan TIP is based on a continuing, comprehensive transportation process carried on cooperatively by the States, MPOs and transit operators in accordance with the provisions of 23 U.S.C. 134 and section 8 of the Federal Transit Act (49 U.S.C. app. 1607). This finding shall be based on the self-certification statement submitted by the State and MPO under § 450.334 and upon other reviews as deemed necessary by the FHWA and the FTA.

(b) In nonattainment and maintenance areas, the FHWA and the FTA must also jointly find that the metropolitan TIP conforms with the adopted SIP and that priority has been given to the timely implementation of transportation control measures contained in the SIP in accordance with 40 CFR part 51. As part of their review in nonattainment areas requiring TCMs, the FHWA and the FTA will specifically consider any comments relating to the financial plans for the plan and TIP contained in the summary of significant comments required under § 450.316(b). If the TIP is found to be in nonconformance with the SIP, the TIP shall be returned to the Governor and the MPO with the joint finding. If the TIP is found to conform with the SIP, the Governor/MPO shall be notified of the joint finding. After the FHWA and the FTA find the TIP to be in conformance, the TIP shall be incorporated, without modification, into the STIP, directly or by reference.

§ 450.332 Project selection for implementation.

(a) In areas not designated as TMAs and when § 450.332(c) does not apply, projects to be implemented using title 23 funds other than Federal lands projects or Federal Transit Act funds shall be selected by the State and/or the transit operator, in cooperation with the MPO from the approved metropolitan TIP. Federal Lands Highways program projects shall be selected in accordance with 23 U.S.C. 204.

(b) In areas designated as TMAs where § 450.332(c) does not apply, all title 23 and Federal Transit Act funded projects, except projects on the NHS and

projects funded under the bridge, interstate maintenance, and Federal Lands Highways programs, shall be selected by the MPO in consultation with the State and transit operator from the approved metropolitan TIP and in accordance with the priorities in the approved metropolitan TIP. Projects on the NHS, and projects funded under the bridge and Interstate maintenance programs shall be selected by the State in cooperation with the MPO, from the approved metropolitan TIP. Federal Lands Highway Program projects shall be selected in accordance with 23 U.S.C. 204.

(c) Once a TIP that meets the requirements of § 450.324 has been developed and approved, the first year of the TIP shall constitute an "agreed to" list of projects for project selection purposes and no further project selection action is required for the implementing agency to proceed with projects, except where the appropriated Federal funds available to the metropolitan planning area are significantly less than the authorized amounts. In this case, a revised "agreed to" list of projects shall be jointly developed by the MPO, State, and the transit operator if requested by the MPO, State, or the transit operator. If the State or transit operator wishes to proceed with a project in the second or third year of the TIP, the specific project selection procedures stated in paragraphs (a) and (b) of this section must be used unless the MPO, State, and transit operator jointly develop expedited project selection procedures to provide for the advancement of projects from the second or third year of the TIP.

(d) Projects not included in the Federally approved STIP will not be eligible for funding with title 23, U.S.C., or Federal Transit Act funds.

(e) In nonattainment and maintenance areas, priority will be given to the timely implementation of TCMs contained in the applicable SIP in accordance with the U.S. EPA conformity regulations at 40 CFR part 51.

§ 450.334 Metropolitan transportation planning process: Certification.

(a) The State and the MPO shall annually certify to the FHWA and the FTA that the planning process is addressing the major issues facing the area and is being conducted in accordance with all applicable requirements of:

(1) Section 134 of title 23, U.S.C., section 8 of the Federal Transit Act (49 U.S.C. app. 1607) and this part;

(2) Sections 174 and 176 (c) and (d) of the Clean Air Act (42 U.S.C. 7504, 7506 (c) and (d));

(3) Title VI of the Civil Rights Act of 1964 and the Title VI assurance executed by each State under 23 U.S.C. 324 and 29 U.S.C. 794;

(4) Section 1003(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102–240) regarding the involvement of disadvantaged business enterprises in the FHWA and the FTA funded planning projects (sec. 105(f), Pub. L. 97–424, 96 Stat. 2100; 49 CFR part 23); and

(5) The provisions of the Americans with Disabilities Act of 1990 (Pub. L. 101–336, 104 Stat. 327, as amended) and U.S. DOT regulations "Transportation for Individuals with Disabilities" (49 CFR parts 27, 37, and 38).

(b) The FHWA and the FTA jointly will review and evaluate the transportation planning process for each TMA (as appropriate but no less than once every three years) to determine if the process meets the requirements of this subpart.

(c) In TMAs that are nonattainment or maintenance areas for transportation related pollutants, the FHWA and the FTA will also review and evaluate the transportation planning process to assure that the MPO has an adequate process to ensure conformity of plans and programs in accordance with procedures contained in 40 CFR part 51.

(d) Upon the review and evaluation conducted under paragraphs (b) and (c) of this section, if the FHWA and the FTA jointly determine that the transportation planning process in a TMA meets or substantially meets the requirements of this part, they will take one of the following actions, as appropriate:

(1) Jointly certify the transportation planning process;

(2) Jointly certify the transportation planning process subject to certain specified corrective actions being taken; or

(3) Jointly certify the planning process as the basis for approval of only those categories of programs or projects that the Administrators may jointly determine and subject to certain specified corrective actions being taken.

(e) A certification action under this section will remain in effect for three years unless a new certification determination is made sooner.

(f) If, upon the review and evaluation conducted under paragraph (b) or (c) of this section, the FHWA and the FTA jointly determine that the transportation planning process in a TMA does not substantially meet the requirements, they may take the following action as appropriate, if after September 30, 1993, the transportation planning process is not certified:

(1) Withhold in whole or in part the apportionment attributed to the relevant metropolitan planning area under 23 U.S.C. 133(d)(3), capital funds apportioned under section 9 of the Federal Transit Act, and section 3 funds under the Federal Transit Act (49 U.S.C. 1607(a)); or

(2) Withhold approval of all or certain categories of projects.

(g) If a transportation planning process remains uncertified for more than two consecutive years after September 30, 1994, 20 percent of the apportionment attributed to the metropolitan planning area under 23 U.S.C. 133(d)(3) and capital funds apportioned under the formula program of section 9 of the Federal Transit Act (49 U.S.C. app. 1607a) will be withheld.

(h) The State and the MPO shall be notified of the actions taken under paragraphs (f) and (g) of this section. Upon full, joint certification by the FHWA and the FTA, all funds withheld will be restored to the metropolitan area, unless they have lapsed.

§ 450.336 Phase-in of new requirements.

(a) Except for reflecting the consideration given the results of the management systems, the planning process and plans in nonattainment areas requiring TCMs shall comply, to the extent possible, with the requirements of this subpart by October 1, 1994. All other metropolitan areas shall comply to the extent possible with the requirements of this subpart by December 18, 1994. Where time does not permit a quantitative analysis of certain factors, a qualitative analysis of those factors will be acceptable. If a forecast period of less than twenty years is acceptable for SIP development and air quality conformity purposes, that same time period will be acceptable for transportation planning. The initial plan update shall be financially feasible, taking into account capital costs and the funds reasonably available for capital improvements, as well as addressing to the extent possible the costs of and revenues available for operating and maintenance of the transportation system. Where TCMs are required, the plan update process shall be coordinated with the process for developing TCMs. The planning process for subsequent updates of the plan and the updated plans shall comply with the requirements of this subpart. Plan updates performed in all areas must consider the results of the management systems (specified in 23 CFR part 500)

as they become available. The plan shall reflect this consideration.

(b)(1) During the period prior to the full implementation of the CMS in a TMA, the MPO in cooperation with the State, the public transit operators, and other operators of major modes of transportation shall identify the location of the most serious congestion problems in the metropolitan area and proceed with the development of actions to address these problems.

(2) Prior to the full implementation of a CMS, an adequate interim CMS in a TMA designated as nonattainment for carbon monoxide and/or ozone shall, as a minimum, include a process that results in an appropriate analysis of all reasonably available (including multimodal) travel demand reduction and operational management strategies for the corridor in which a project that will result in a significant increase in SOV capacity is proposed. This analysis must demonstrate how far such strategies can go in eliminating the need for additional SOV capacity in the corridor. If the analysis demonstrates that additional SOV capacity is warranted, then all reasonable strategies to manage the facility effectively (or to facilitate its management in the future) shall be incorporated into the proposed facility. Other travel demand reduction and operational management strategies appropriate for the corridor, but not appropriate for incorporation into the SOV facility itself must be committed to by the State and the MPO for implementation in a timely manner but no later than completion of construction of the SOV facility. If the area does not already have a traffic management and carpool/vanpool program, the establishment of such programs must be a part of the commitment.

(3) In TMAs that are nonattainment for carbon monoxide and/or ozone, the MPO, a State and/or transit operator may not advance a project utilizing Federal funds that provides a significant capacity increase for SOVs (adding general purpose lanes, with the exception of safety improvements or the elimination of bottlenecks, or a new highway on a new location) beyond the NEPA process unless an interim CMS is in place that meets the criteria in paragraphs (b)(1) and (b)(2) of this section and the project results from this interim CMS.

(4) Projects that are part of or consistent with a State mandated congestion management system/plan are not subject to the requirements in paragraphs (b)(1) and (b)(2) of this section.

(5) Projects advanced beyond the NEPA process as of April 6, 1992 and which are being implemented, e.g., right-of-way acquisition has been approved, will be deemed to be programmed and not subject to this requirement.

(6) At such time as a final CMS is fully operational the provisions of § 450.320(b) apply.

49 CFR Chapter VI

PART 613—PLANNING ASSISTANCE AND STANDARDS

2. The authority citation for part 613 is added and the authority citations for subparts A, B, and C are removed, to read as follows:

Authority: 23 U.S.C 104(f), 105, 134, 217, 307, 315 and 324; 42 U.S.C. 3334, 4233, 4332, 7410 et seq; 49 U.S.C. app. 1602, 1603, 1604, 1605, 1607, 1607a, 1612, and 1622; and 49 CFR 1.48(b), 1.51(f) and 21.7(a).

3. Subparts A and B of part 613 are revised to read as follows:

Subpart A—Metropolitan Transportation Planning and Programming

§ 613.100 Metropolitan transportation planning and programming.

The regulations in 23 CFR part 450, subpart C, shall be followed in complying with the requirements of this subpart. 23 CFR part 450, subpart C, requires a metropolitan planning organization (MPO) be designated for each urbanized area and that the metropolitan area have a continuing, cooperative, and comprehensive transportation planning process that results in plans and programs that consider all transportation modes. These plans and programs shall lead to the development of an integrated, intermodal metropolitan transportation system that facilitates the efficient, economic movement of people and goods.

Subpart B—Statewide Transportation Planning and Programming

§ 613.200 Statewide transportation planning and programming.

The regulations in 23 CFR part 450, subpart B, should be followed in complying with the requirements of this subpart. 23 CFR part 450, subpart B, requires each State to carry out an intermodal statewide transportation planning process, including the development of a statewide transportation plan and transportation improvement program that facilitates the efficient, economic movement of people and goods in all areas of the State, including those areas subject to the requirements of 23 U.S.C. 135 and sections 3, 5, 8, 9 and 26 of the Federal Transit Act (49 U.S.C. app. 1602, 1604, 1607, 1607a, and 1622).

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federal register

Thursday
October 28, 1993

Part III

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Oglala Sioux Tribe and State of South Dakota; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the Federal Register, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Oglala Sioux Tribe and the State of South Dakota Gaming Compact of 1993, which was enacted on August 25, 1993.

DATES: This action is effective upon date of publication.

FOR FURTHER INFORMATION CONTACT: Hilda Manuel, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: October 14, 1993.

Ada E. Deer,

Acting for Assistant Secretary—Indian Affairs, Marshall M. Cutsforth.

[FR Doc. 93–26508 Filed 10–27–93; 8:45 am]

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federal register

Thursday
October 28, 1993

Part IV

Department of Education

34 CFR Part 650
Jacob K. Javits Fellowship Program; Rule

DEPARTMENT OF EDUCATION

34 CFR Part 650

RIN 1840–AB93

Jacob K. Javits Fellowship Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Jacob K. Javits Fellowship Program. These amendments are needed to implement new statutory provisions enacted in the Higher Education Amendments of 1992 (Pub. L. 102–325). This program supports National Education Goal 5 which calls for adult Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Diana Hayman, U.S. Department of Education, 400 Maryland Avenue SW., room 4025, ROB–3, Washington, DC 20202–5251. Telephone: (202) 708–9415. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: These final regulations implement statutory changes to part C of title IX of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1992 (Pub. L. 102–325), enacted July 23, 1992. The regulations also make other changes to improve the administration and management of the program.

On July 14, 1993, the Secretary published a notice of proposed rulemaking for this program in the **Federal Register** (58 FR 37890). The only differences between the NPRM and these final regulations are technical changes, including a change to § 650.2(d)(1) that adds permanent residents of the United States to the list of eligible individuals who are pursuing a doctoral degree that will not lead to an academic career.

Public Comment

In the NPRM the Secretary invited comments on the proposed regulations. The only comment that the Secretary received suggested a change the Secretary is not legally authorized to make under the applicable statutory authority. Except for technical changes, the Secretary has made no changes in these regulations since publication of the NPRM.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

In the NPRM, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 650

Colleges and universities, Education, Fellowships, Grant program, Reporting and recordkeeping.

(Catalog of Federal Domestic Assistance Number 84.170—Jacob K. Javits Fellowship Program)

Dated: October 19, 1993.

Richard W. Riley,

Secretary of Education.

The Secretary amends title 34 of the Code of Federal Regulations by revising part 650 to read as follows:

PART 650—JACOB K. JAVITS FELLOWSHIP PROGRAM

Subpart A—General

Authority: 20 U.S.C. 1134, 1134h–1134k-l, unless otherwise noted.

Subpart A—General

§ 650.1 What is the Jacob K. Javits Fellowship Program?

(a) Under the Jacob K. Javits Fellowship Program the Secretary awards fellowships to students of superior ability selected on the basis of demonstrated achievement and exceptional promise, for study at the doctoral level in selected fields of the arts, humanities, and social sciences.

(Authority: 20 U.S.C. 1134h)

(b) Students awarded fellowships under this program are called Jacob K. Javits Fellows.

(Authority: 20 U.S.C. 1134h)

§ 650.2 Who is eligible to receive a fellowship?

An individual is eligible to receive a fellowship if the individual—

(a) Is enrolled at an institution of higher education, other than a school or department of divinity, in the program

of study leading to a doctoral degree in the academic field for which the fellowship is awarded;

(b) Meets the eligibility requirements established by the Fellowship Board;

(c) Is not ineligible to receive assistance under 34 CFR 75.60, as added on July 8, 1992 (57 FR 30328, 30337); and

(d) (1) Is pursuing a doctoral degree that will not lead to an academic career and is—

(i) A citizen or national of the United States;

(ii) A permanent resident of the United States;

(iii) In the United States for other than a temporary purpose and intends to become a permanent resident; or

(iv) A permanent resident of the Trust Territory of the Pacific Islands; or

(2) Is pursuing a doctoral degree that will lead to an academic career and is a citizen of the United States.

(Authority: 20 U.S.C. 1134, 1134h–1134k-1)

§ 650.3 What regulations apply to the Jacob K. Javits Fellowship Program?

The following regulations apply to this program:

(a) The regulations in this part 650.

(b) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs), except for the following:

(i) Subpart C (How to Apply for a Grant);

(ii) Subpart D (How Grants Are Made); and

(iii) Sections 75.580 through 75.592 of subpart E.

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations), except for the terms "grantee" and "recipient."

(4) 34 CFR part 82 (New Restrictions on Lobbying).

(5) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(6) 34 CFR part 86 (Drug-Free Schools and Campuses).

(Authority: 20 U.S.C. 1134h)

§ 650.4 What definitions apply to the Jacob K. Javits Fellowship Program?

The following definitions apply to terms used in this part:

Academic year means the 12-month period beginning with the fall instructional term of the institution of higher education.

Act means the Higher Education Act of 1965, as amended.

Department means any program, unit or any other administrative subdivision of an institution of higher education that—

(1) Directly administers or supervises post-baccalaureate instruction in a specific discipline; and

(2) Has the authority to award academic course credit acceptable to meet degree requirements at an institution of higher education.

Fellow means a recipient of a Jacob K. Javits fellowship under this part.

Fellowship means an award made to a person for graduate study under this part.

Fellowship Board means the Jacob K. Javits Fellowship Program Fellowship Board, composed of individual representatives of both public and private institutions of higher education who are appointed by the Secretary to establish general policies for the program and oversee its operation.

Financial need means the fellow's financial need as determined under part F of title IV of the HEA, for the period of the fellow's enrollment in the approved academic field of study for which the fellowship was awarded.

Grantee means an institution of higher education that administers a fellowship award under this part.

HEA means the Higher Education Act of 1965, as amended.

Institution means an institution of higher education.

Institution of higher education means an institution of higher education, other than a school or department of divinity, as defined in section 1201(a) of the HEA.

Institutional payment means the amount paid by the Secretary to the institution of higher education in which the fellow is enrolled to be applied against the tuition and fees required of the fellow by the institution as part of the fellow's instructional program.

Knows or has reason to know means that a person with respect to a statement—

(1) Has actual knowledge that the statement is false or fictitious;

(2) Acts in deliberate ignorance of the truth or falsity of the statement; or

(3) Acts in reckless disregard of the truth or falsity of the statement.

Recipient means an institution of higher education that administers a fellowship award under this part.

Satisfactory progress means that the fellow meets or exceeds the institution's criteria and standards established for all doctoral students' continued status as applicants for the doctoral degree in the academic field of study for which the fellowship was awarded.

School or department of divinity means an institution, or a department of an institution, whose program is specifically for the education of students to prepare them to become ministers of religion or to enter into some other religious vocation, or to prepare them to teach theological subjects.

Secretary means Secretary of the Department of Education or an official or employee of the Department acting for the Secretary under a delegation of authority.

Stipend means the amount paid to an individual awarded a fellowship, including an allowance for subsistence and other expenses for the individual and his or her dependents.

(Authority: 20 U.S.C. 1134h–1134k)

§ 650.5 What does a fellowship award include?

The Secretary awards fellowships consisting of the following:

(a) A stipend paid to the fellow, based upon an annual determination of the fellow's financial need, as described in § 650.42.

(b) An annual payment made to the institution in which the fellow is enrolled as described in § 650.41.

(Authority: 20 U.S.C. 1134j)

Subpart B—How Does an Individual Apply for a Fellowship?

§ 650.10 How does an individual apply for a fellowship?

An individual shall apply to the Secretary for a fellowship award in response to an application notice published by the Secretary in the Federal Register.

(Authority: 20 U.S.C. 1134h)

Subpart C—How Are Fellows Selected?

§ 650.20 What are the selection procedures?

(a) The Fellowship Board establishes criteria for the selection of fellows.

(b) Each year the Fellowship Board selects specific fields of study, and the number of fellows in each field (within the humanities, arts and social sciences), for which fellowships will be awarded.

(c) The Fellowship Board appoints panels of distinguished individuals in each field to evaluate applications.

(d) The Secretary may make awards of the fellowships each year in two or more stages, taking into account at each stage the amount of funds remaining after the level of funding for awards previously made has been established or adjusted.

(Authority: 20 U.S.C. 1134i)

Subpart D—What Conditions Must be Met By Fellows?

§ 650.30 Where may fellows study?

A fellow may use the fellowship only for enrollment in a doctoral program at an institution of higher education, other than a school or department of divinity, which is accredited by an accrediting agency or association recognized by the Secretary, which accepts the fellow for graduate study, and which has agreed to comply with the provisions of this part applicable to institutions.

(Authority: 20 U.S.C. 1134h-1134k)

§ 650.31 How does an individual accept a fellowship?

(a) An individual notified by the Secretary of selection as a fellow shall inform the Secretary of the individual's acceptance in the manner and time prescribed by the Secretary in the notification.

(b) If an individual fails to comply with the provisions of paragraph (a) of this section, the Secretary treats the individual's failure to comply as a refusal of the fellowship.

(Authority: 20 U.S.C. 1134h)

§ 650.32 How does the Secretary withdraw an offer of a fellowship?

(a) The Secretary withdraws an offer of a fellowship to an individual only if the Secretary determines that the individual submitted fraudulent information on the application.

(b) The Secretary considers the application to contain fraudulent information if the application contains a statement that—

(1) The applicant knows or has reason to know—

(i) Asserts a material fact that is false or fictitious; or

(ii) Is false or fictitious because it omits a material fact that the person making the statement has a duty to include in the statement; and

(2) Contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement.

(Authority: 20 U.S.C. 1134j)

§ 650.33 What is the duration of a fellowship?

(a) An individual may receive a fellowship for a doctoral degree program of study for a total of 48 months or the time required for receiving the doctoral degree, whichever is less.

(b) (1) An individual may receive a fellowship for no more than 24 months for dissertation work, without the prior approval of the Secretary.

(2) A fellow may apply to the Secretary for an additional period of fellowship support for dissertation work. The fellow's application must include—

(i) The specific facts detailing the reasons why the additional period of dissertation work support is necessary;

(ii) A certification by the institution that it is aware of the fellow's application and that the fellow has attained satisfactory progress in the fellow's academic studies; and

(iii) A recommendation from the institution that the additional period of fellowship support for dissertation work is necessary.

(c) A fellow who maintains satisfactory progress in the program of study for which the fellowship was awarded may have the fellowship renewed annually for the total length of time described in paragraph (a) of this section.

(Authority: 20 U.S.C. 1134h, 1134k)

§ 650.34 What conditions must be met by fellows?

In order to continue to receive payments under a fellowship, a fellow shall—

(a) Maintain satisfactory progress in the program for which the fellowship was awarded as determined by the institution of higher education;

(b) Devote essentially full time to study or research in the field in which the fellowship was awarded, as determined by the institution of higher education;

(c) Not engage in gainful employment during the period of the fellowship except on a part-time basis, for the institution of higher education at which the fellowship was awarded, in teaching, research, or similar activities approved by the Secretary; and

(d) Begin study under the fellowship in the academic year specified in the fellowship award.

(Authority: 20 U.S.C. 1134h–1134k)

§ 650.35 May fellowship tenure be interrupted?

(a) An institution of higher education may allow a fellow to interrupt study for a period not to exceed 12 months, but only if the interruption of study is—

(1) For the purpose of work, travel, or independent study, if the independent study is away from the institution and supportive of the fellow's academic program; and

(2) Approved by the institution of higher education.

(b) A fellow may continue to receive payments during the period of interruption only if the fellow's interruption of study is for the purpose of travel or independent study that is supportive of the fellow's academic program.

(c) A fellow may not receive payments during the period of interruption if the fellow's interruption of study is for the purpose of travel that is not supportive of the fellow's academic program, or work, whether supportive of the fellow's academic program or not.

(d) The Secretary makes a pro rata institutional payment to the institution of higher education in which the fellow is enrolled during the period the fellow receives payments as described in paragraph (b) of this section.

(Authority: 20 U.S.C. 1134h)

§ 650.36 May fellows make changes in institution or field of study?

After an award is made, a fellow may not make any change in the field of study or institution attended without the prior approval of the Secretary.

(Authority: 20 U.S.C. 1134k)

§ 650.37 What records and reports are required from fellows?

Each individual who is awarded a fellowship shall keep such records and submit such reports as are required by the Secretary.

(Authority: 20 U.S.C. 1134k)

Subpart E—What Are The Administrative Responsibilities of The Institution?

§ 650.40 What institutional agreements are needed?

Students enrolled in an otherwise eligible institution of higher education may receive fellowships only if the institution enters into an agreement with the Secretary to comply with the provisions of this part.

(Authority: 20 U.S.C. 1134h-1134k)

§ 650.41 How are institutional payments to be administered?

(a) With respect to the awards made for the academic year 1993–1994, the Secretary makes a payment of $9,000 to the institution of higher education for each individual awarded a fellowship for pursuing a course of study at the institution. The Secretary adjusts the amount of the institutional payment annually thereafter in accordance with inflation as determined by the U.S. Department of Labor's Consumer Price Index for the previous calendar year.

(b) If the institution of higher education charges and collects amounts from a fellow for tuition or other expenses required by the institution as part of the fellow's instructional program, the Secretary deducts that amount from the institutional payment.

(c) If the fellow is enrolled for less than a full academic year, the Secretary pays the institution a pro rata share of the allowance.

(Authority: 20 U.S.C. 1134j)

§ 650.42 How are stipends to be administered?

(a) The institution annually shall calculate the amount of a fellow's financial need in the same manner as that in which the institution calculates its students' financial need under part F of title IV of the HEA.

(b) For a fellowship initially awarded for an academic year prior to the academic year 1993–1994, the institution shall pay the fellow a stipend in the amount of the fellow's financial need or $10,000, whichever is less.

(c) For a fellowship initially awarded for the academic year 1993–1994 or any succeeding academic year, the institution shall pay the fellow a stipend at a level of support equal to that provided by the National Science Foundation graduate fellowships, except that the amount must be adjusted as necessary so as not to exceed the fellow's demonstrated level of financial need.

(Authority: 20 U.S.C. 1134j)

§ 650.43 How are disbursement and return of grant award funds made?

(a) An institution shall disburse a stipend to a fellow no less frequently than once per academic term. If the fellowship is vacated or discontinued, the institution shall return any unexpended funds to the Secretary at such time and in such manner as the Secretary may require.

(b) If a fellow withdraws from an institution before completion of an academic term, the institution shall refund to the Secretary a prorated portion of the institutional payment that it received with respect to that fellow. The institution shall return those funds to the Secretary at such time and in such manner as the Secretary may require.

(c) A fellow who withdraws from an institution before completion of an academic term for which the fellow received a stipend installment shall return a prorated portion of the stipend installment to the institution at such time and in such manner as the Secretary may require.

(Authority: 20 U.S.C. 1134j)

§ 650.44 What records and reports are required from institutions?

(a) An institution shall provide to the Secretary, prior to receiving funds for disbursement to a fellow, a certification from an appropriate official at the institution stating whether that fellow is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.

(b) An institution shall keep such records as are necessary to establish the timing and amount of all disbursements of stipends.

(Approved by the Office of Management and Budget under control number 1840–0562)

(Authority: 20 U.S.C. 1134k)

[FR Doc. 93–26495 Filed 10–27–93; 8:45 am]

BILLING CODE 4000–01–P

federal register

Thursday
October 28, 1993

Part V

Department of Education

Jacob K. Javits Fellowship Program; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 84.170]

Jacob K. Javits Fellowship Program; Inviting Applications for New Awards for Fiscal Year (FY) 1994

Purpose of Program: To award fellowships to eligible students of superior ability, selected on the basis of demonstrated achievement and exceptional promise, to undertake graduate study leading to a doctorate at accredited institutions of higher education in selected fields of the arts, humanities, or social sciences. This program supports National Education Goal Five calling for adult Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Eligible Applicants: Eligibility for fellowships to pursue a doctoral degree that will not lead to an academic career is limited to U.S. citizens, permanent residents of the U.S., persons in the process of becoming U.S. citizens or permanent residents, and permanent residents of the Trust Territories of the Pacific Islands or Northern Mariana Islands. Eligibility for fellowships to pursue a doctoral degree that will lead to an academic career is limited to U.S. citizens.

Deadline for Transmittal of Applications: January 18, 1994.

Applications Available: November 1, 1993.

Available Funds: The Administration has requested $8,664,000 for this program for FY 1994. However, the actual level of funding is contingent upon final Congressional action.

Estimated Range of Awards: The Secretary has determined the maximum fellowship stipend for academic year 1994–1995 to be equal to the level of support that the National Science Foundation is providing for its graduate fellowships, which is currently $14,000. The Secretary estimates that the institutional payment for academic year 1994–1995 will be $9,243, which represents a 2.7 percent adjustment of the academic year 1993–1994 payment based on the Department of Labor's projection in April 1993 of the Consumer Price Index for 1993. The Secretary may adjust the institutional payment prior to the issuance of grant awards based on the Department of Labor's actual Consumer Price Index for 1993.

Estimated Average Size of the Awards: $22,000.

Estimated Number of Awards: 120–130 individual fellowships.

Supplementary Information: Sixty percent of new awards will be available for fellowships to otherwise eligible applicants who have earned no credit hours applicable to a graduate degree. The remaining forty percent of new awards will be available for fellowships to all otherwise eligible applicants. In each of these two categories, a minimum of forty percent of these new fellowships will be awarded to applicants in the humanities, twenty-five percent to applicants in the social sciences, and fifteen percent in the arts.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75 (except as provided in 34 CFR 650.3(b)), 77, 82, 85 and 86; and (b). The regulations for this program in 34 CFR part 650 are published elsewhere in this issue of the **Federal Register.**

For Applications or Information Contact: Jacob K. Javits Fellowship Program, P.O. Box 84, Washington, DC 20044. Telephone: 1–800–433–3243. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Program Authority: 20 U.S.C. 1134, 1134h–k.

Dated: October 22, 1993.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 93–26496 Filed 10–27–93; 8:45 am]
BILLING CODE 4000–01–P

federal register

Thursday
October 28, 1993

Part VI

The President

Executive Order 12875—Enhancing the Intergovernmental Partnership

Memorandum of October 26—Streamlining Procurement Through Electronic Commerce

Federal Register
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Thursday, October 28, 1993

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Title 3—

The President

Executive Order 12875 of October 26, 1993

Enhancing the Intergovernmental Partnership

The Federal Government is charged with protecting the health and safety, as well as promoting other national interests, of the American people. However, the cumulative effect of unfunded Federal mandates has increasingly strained the budgets of State, local, and tribal governments. In addition, the cost, complexity, and delay in applying for and receiving waivers from Federal requirements in appropriate cases have hindered State, local, and tribal governments from tailoring Federal programs to meet the specific or unique needs of their communities. These governments should have more flexibility to design solutions to the problems faced by citizens in this country without excessive micromanagement and unnecessary regulation from the Federal Government.

THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to reduce the imposition of unfunded mandates upon State, local, and tribal governments; to streamline the application process for and increase the availability of waivers to State, local, and tribal governments; and to establish regular and meaningful consultation and collaboration with State, local, and tribal governments on Federal matters that significantly or uniquely affect their communities, it is hereby ordered as follows:

Section 1. *Reduction of Unfunded Mandates.* (a) To the extent feasible and permitted by law, no executive department or agency ("agency") shall promulgate any regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless:

(1) funds necessary to pay the direct costs incurred by the State, local, or tribal government in complying with the mandate are provided by the Federal Government; or

(2) the agency, prior to the formal promulgation of regulations containing the proposed mandate, provides to the Director of the Office of Management and Budget a description of the extent of the agency's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, any written communications submitted to the agency by such units of government, and the agency's position supporting the need to issue the regulation containing the mandate.

(b) Each agency shall develop an effective process to permit elected officials and other representatives of State, local, and tribal governments to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.

Sec. 2. *Increasing Flexibility for State and Local Waivers.* (a) Each agency shall review its waiver application process and take appropriate steps to streamline that process.

(b) Each agency shall, to the extent practicable and permitted by law, consider any application by a State, local, or tribal government for a waiver of statutory or regulatory requirements in connection with any program administered by that agency with a general view toward increasing opportunities for utilizing flexible policy approaches at the State, local, and tribal level in cases in which the proposed waiver is consistent with the applicable Federal policy objectives and is otherwise appropriate.

(c) Each agency shall, to the fullest extent practicable and permitted by law, render a decision upon a complete application for a waiver within 120 days of receipt of such application by the agency. If the application for a waiver is not granted, the agency shall provide the applicant with timely written notice of the decision and the reasons therefor.

(d) This section applies only to statutory or regulatory requirements of the programs that are discretionary and subject to waiver by the agency.

Sec. 3. *Responsibility for Agency Implementation.* The Chief Operating Officer of each agency shall be responsible for ensuring the implementation of and compliance with this order.

Sec. 4. *Executive Order No. 12866.* This order shall supplement but not supersede the requirements contained in Executive Order No. 12866 ("Regulatory Planning and Review").

Sec. 5. *Scope.* (a) Executive agency means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10).

(b) Independent agencies are requested to comply with the provisions of this order.

Sec. 6. *Judicial Review.* This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 7. *Effective Date.* This order shall be effective 90 days after the date of this order.

William J. Clinton

THE WHITE HOUSE,
October 26, 1993.

[FR Doc. 93-26772
Filed 10-27-93; 11:13 am]
Billing code 3195-01-P

Presidential Documents

Memorandum of October 26, 1993

Streamlining Procurement Through Electronic Commerce

Memorandum for the Heads of Executive Departments and Agencies [and] the President's Management Council

The Federal Government spends $200 billion annually buying goods and services. Unfortunately, the red tape and burdensome paperwork of the current procurement system increases costs, produces unnecessary delays, and reduces Federal work force productivity. Moving to an electronic commerce system to simplify and streamline the purchasing process will promote customer service and cost-effectiveness. The electronic exchange of acquisition information between the private sector and the Federal Government also will increase competition by improving access to Federal contracting opportunities for the more than 300,000 vendors currently doing business with the Government, particularly small businesses, as well as many other vendors who find access to bidding opportunities difficult under the current system. For these reasons, I am committed to fundamentally altering and improving the way the Federal Government buys goods and services by ensuring that electronic commerce is implemented for appropriate Federal purchases as quickly as possible.

1. OBJECTIVES.

The objectives of this electronic commerce initiative are to:

(a) exchange procurement information—such as solicitations, offers, contracts, purchase orders, invoices, payments, and other contractual documents—electronically between the private sector and the Federal Government to the maximum extent practical;

(b) provide businesses, including small, small disadvantaged, and women-owned businesses, with greater access to Federal procurement opportunities;

(c) ensure that potential suppliers are provided simplified access to the Federal Government's electronic commerce system;

(d) employ nationally and internationally recognized data formats that serve to broaden and ease the electronic interchange of data; and

(e) use agency and industry systems and networks to enable the Government and potential suppliers to exchange information and access Federal procurement data.

2. IMPLEMENTATION.

The President's Management Council, in coordination with the Office of Federal Procurement Policy of the Office of Management and Budget, and in consultation with appropriate Federal agencies with applicable technical and functional expertise, as necessary, shall provide overall leadership, management oversight, and policy direction to implement electronic commerce in the executive branch through the following actions:

(a) by March 1994, define the architecture for the Government-wide electronic commerce acquisition system and identify executive departments or agencies responsible for developing, implementing, operating, and maintaining the Federal electronic system;

(b) by September 1994, establish an initial electronic commerce capability to enable the Federal Government and private vendors to electronically

exchange standardized requests for quotations, quotes, purchase orders, and notice of awards and begin Government-wide implementation;

(c) by July 1995, implement a full scale Federal electronic commerce system that expands initial capabilities to include electronic payments, document interchange, and supporting databases; and

(d) by January 1997, complete Government-wide implementation of electronic commerce for appropriate Federal purchases, to the maximum extent possible.

This implementation schedule should be accelerated where practicable.

The head of each executive department or agency shall:

(a) ensure that budgetary resources are available, within approved budget levels, for electronic commerce implementation in each respective department or agency;

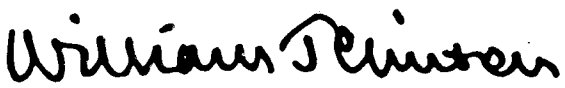
(b) assist the President's Management Council in implementing the electronic commerce system as quickly as possible in accordance with the schedules established herein; and

(c) designate one or more senior level employees to assist the President's Management Council and serve as a point of contact for the development and implementation of the Federal electronic commerce system within each respective department or agency.

3. NO PRIVATE RIGHTS CREATED.

This directive is for the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the **Federal Register.**



THE WHITE HOUSE,
Washington, October 26, 1993.

[FR Doc. 93-26771
Filed 10-27-93; 11:12 am]
Billing code 3110-01-M

Editorial note: For the President's remarks on signing this memorandum, see issue 43 of the *Weekly Compilation of Presidential Documents.*

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